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GENERAL LAWS

PASSED BY THE

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF KANSAS,

AT THE

GENERAL AND SPECIAL SESSIONS

OF THE YEAR

1860:

THE FIRST SESSION BEGUN AT THE CITY OF LECOMPTON, JAN'Y 2,
AND ADJOURNED AT THE CITY OF LAWRENCE, JAN'Y 18; THE
SECOND SESSION CONVENED AT LECOMPTON JAN'Y 19,
ADJOURNED TO AND CONCLUDED AT LAWRENCE.

PUBLISHED BY AUTHORITY.

LECOMPTON, K. T.:

S. A. MEDARY & S. W. DRIGGS, PRINTERS, "DEMOCRAT" OFFICE,
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GENERAL LAWS.

CHAPTER I.

AN ACT Relating to Acknowledgments, Oaths and Depositions.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. The county clerks of the respective counties in this Territory are hereby authorized to take acknowledgments of deeds and other instruments of writing, administer oaths and take depositions. County clerks to take acknowledgments, &c.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER II.

AN ACT Making Appropriations for the Expenses of the Territory of Kansas, for the year A. D. 1860.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the following sums be and are hereby appropriated to the objects herein named, for the year 1860, or so much thereof as may be necessary, to be paid out of any money Appropriations for 1860.

Appropriations. in the treasury not otherwise appropriated, to wit: To pay expenses of Wyandott Constitutional Convention and printing election notices of same, thirteen thousand dollars; to pay the expenses of Legislative Assembly of the year 1859, not otherwise provided, three thousand dollars; to pay expenses of the Legislative Assembly for the year A. D. 1860, six thousand dollars; Chas. F. Kob, publishing Governor's proclamation and message and translating the same in German, one hundred and twenty-four dollars; contingent expenses printing election notices, Governor's proclamations and other notices, required by law, of the Territorial officers, for years 1859 and '60, five thousand dollars; Danl. Auld, taking census, A. D. 1858, fifty dollars; Huson & Blacklege, [Blacklidge,] for boarding John Salathiel, a convict, thirty-five dollars; for salary of Auditor and office rent, sixteen hundred dollars; salary of Treasurer and office rent, sixteen hundred dollars; salary of Librarian and rent of room, two hundred dollars; incidental expenses of Auditor's office, preparing assessment rolls, distributing the same, and issuing circulars of instructions to the various county officers, two hundred and fifty dollars; George W. Brown, printing school law, forms for superintendent of common schools, one hundred and sixty dollars; Auditor's expenses in the collection and settlement of delinquent taxes of the counties in arrears for previous assessments, five hundred dollars; William McKay, attorney for Claim Commissioners, services and expenses, one thousand dollars; incidental expenses of Auditor's office, being for years 1857, '8 and '9, for stationery, postage, fuel, furniture, express charges and freight on books of Territorial library, three hundred and eighty-three dollars; commissioner to audit claims and expenses, three hundred dollars; R. S. Newall, P. H. Peters, publishing proclamation of Governor, fifty dollars; for Saml. A. Medary, publishing Governor's proclamations and election notices, sixty dollars; W. H. Gill & Co., publishing Governor's proclamation and other official notices, one hundred and eighteen dollars; Cummings & Shepherd, for publishing proclamation of State canvassers, sixty dollars; S. N. Wood for publishing Governor's proclamation and other official notices, seventy-five dollars; J. T. Hinton, publishing Governor's proclamation and election notices, eighty-five dollars; P. S. Post, publishing Governor's proclamation and other notices, one hundred and three and fifty one-hundredths dollars; J. W. Biggers, for publishing Governor's proclamations, eighty dollars; for expenses incurred under provisions of law, three thousand dollars; *Provided*, That no

part of this appropriation shall be used to pay any expenses incurred prior to December, A. D. 1857; and to George Ford, for room rent and goods furnished, five hundred dollars.

SEC. 2. The Auditor of the Territory is hereby authorized and required to issue warrants on the treasury of the Territory, for the purposes specified in the first section of this act; and all accounts for the expenses of the Wyandott Convention shall be certified to by the president of the Convention and sergeant-at-arms. All accounts for the Legislative expenses for the year 1859, not provided for, shall be certified to by the president of the Council and sergeant-at-arms of the House of Representatives for said year; and all accounts for the Legislative expenses for the regular and extra session of the Legislative Assembly for the year 1860 shall be certified to by the speaker of the House of Representatives, secretary of the Council and sergeant-at-arms of the House of Representatives. Said certificates for the aforesaid accounts for Legislative expenses shall be accompanied by copies of resolutions authorizing and allowing said accounts, by either or both houses of the Legislative Assembly for the respective years of 1859 and 1860. The said certificates with resolutions aforesaid, shall be sufficient evidence for the Auditor to draw his warrants for the same.

Auditor to issue warrants.

Accounts how certified.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved Feb. 27, 1860.

S. MEDARY,
Governor.

CHAPTER III.

AN ACT for the Payment of Costs in certain cases, and for other purposes.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the sum of twelve hundred and seventy-four and seven one-hundredths dollars be and the same is hereby ap-

Twelve hundred and seventy-four dollars appropriated.

propriated for the payment of costs in criminal cases, for which this Territory is liable, in the district court for Leavenworth county, and before the recorder of Leavenworth city, accruing since the first day of May, A. D. 1858, and prior to the first day of June, A. D. 1859.

Four hundred and eighteen dollars and eighty-four cents appropriated.

Four hundred and fifty-two and twenty-five one hundredths dollars appropriated

Auditor to issue warrants.

SEC. 2. That the sum of four hundred and eighteen and eighty-four one-hundredths dollars be and the same is hereby appropriated for the payment of jurors', bailiffs' and witness[es'] fees in the district court for Atchison county, at the August term, A. D. 1858 ; and the further sum of four hundred and fifty-two and twenty-five one-hundredths dollars be and the same is hereby appropriated for the payment of jurors', bailiffs' and witnesses' fees in the district court for Leavenworth county, at the August term, A. D. 1858.

SEC. 3. The Territorial Auditor is hereby authorized and required to draw warrants upon the Territorial Treasurer for said costs and fees, in favor of the persons entitled to receive the same, upon the certificate of the clerk of said courts, or said recorder, as the case may be ; and such certificate shall be a sufficient warrant to the Auditor for the allowance of the amount therein specified.

SEC. 4. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 25, 1860.

S. MEDARY,
Governor.

CHAPTER IV.

AN ACT Appropriating Money to defray certain Judicial Expenses of the Territory of Kansas.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Appropriations for first and second judicial districts.

SECTION 1. That the following sum of money, or so much thereof as may be necessary for the payment of the indebtedness

hereinafter mentioned, be appropriated out of any money in the Territorial treasury not otherwise appropriated, to wit: For the payment of the judicial expenses of the first and second judicial districts of the Territory of Kansas, as shown by the report of the Auditor of public accounts to the present Legislative Assembly, the sum of eleven thousand three hundred and sixty dollars, (\$11,360,) and no money herein appropriated shall be applied to the payment of costs accruing upon any case or cases commenced in the years 1855, 1856 [and] 1857.

Not applied to
costs made before
1858.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER V.

AN ACT Making an Appropriation for the purpose of paying the amount due Geo. G. Pierce, as Member of the House of Representatives, at the Sixth Session of the Legislature of Kansas Territory.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the sum of seventy-five dollars be and the same is hereby appropriated out of any money in the Territorial treasury, as an equivalent to the amount due Geo. G. Pierce, as member of the Legislature from the third to the eighteenth day of the sixth session thereof, during which time he was engaged in contesting the seat of the member from the tenth representative district; and the Auditor of the Territory is hereby authorized to draw warrants upon the Treasurer, to the above mentioned amount of seventy-five dollars, in favor of Geo. G. Pierce.

Seventy-five dol-
lars to George G.
Pierce.

SEC. 2. All acts or parts of acts inconsistent with this act are hereby repealed.

Acts repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER VI.

AN ACT to appropriate the Sum of Two Hundred and Fifty Dollars.

WHEREAS, The Hon. Hugh S. Walsh, having been compelled to defray certain expenses accruing under a law of the last session of the Territorial Legislature; therefore,

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Two hundred and
fifty dollars to
Hugh S. Walsh.

SECTION 1. That the sum of two hundred and fifty dollars is hereby appropriated to the Hon. Hugh S. Walsh, to be paid out of any money in the Territorial treasurer [treasury] not otherwise appropriated; and the Auditor is hereby authorized to issue a warrant therefor.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER VII.

AN ACT Relating to Moneys appropriated for the Construction of Territorial Roads.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. All moneys heretofore appropriated, and not now Moneys heretofore appropriated not now used, to be retained. actually expended, for the purpose of surveying, locating, constructing, or other purpose pertaining to Territorial roads, are forbidden to be appropriated to any such use on and after the date of the passage of this act; but the same shall remain in the Territorial treasury, subject to the direction of the Legislature, the same in all respects as the other funds of the Territory. The Auditor and other officers forbidden to issue warrants, &c. Territorial Auditor, Treasurer and other officers are hereby forbidden to issue any warrants or pay any of the funds, so appropriated and not now actually expended, under or by reason of the provisions of any act passed prior to the passage of this act, in anywise relating to Territorial roads.

SEC. 2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. Acts repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER VIII.

AN ACT for the relief of Moulton S. [G.] Farnham.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That the sum of two hundred and forty dollars be Two hundred and forty dollars to Moulton G. Farnham. and the same is hereby appropriated to Moulton S. [G.] Farn-

ham for services and expenses as special messenger in bearing a requisition from the Governor of Kansas upon the Governor of the State of Wisconsin.

Auditor to issue warrants.

SEC. 2. The Auditor is hereby directed to issue his warrant upon the Treasurer, to Moulton S. [G.] Farnham, for the said amount.

SEC. 3. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER IX.

AN ACT for the relief of John Kendall.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Five hundred and four dollars to John Kendall.

SECTION 1. That, for the purpose of compensating John Kendall, late marshal of Leavenworth city, for his services and expenses in executing a requisition made by the Governor of this Territory, in the year 1858, on the Governor of Missouri, for a fugitive from justice, from Leavenworth county, there is hereby appropriated the sum of five hundred and four dollars, (\$504,) the account therefor having been audited and allowed by the Auditor of this Territory, and, also, seventy-five dollars as interest thereon, who is hereby authorized and directed to issue his warrants on the Territorial treasury to John Kendall, for the same, to be paid out of any moneys not otherwise appropriated.

Auditor to issue warrants.

SEC. 2. This act to take effect from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 7, 1860.

S. MEDARY, *Governor.*

CHAPTER X.

AN ACT for the relief of Frank W. Roberts.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That the Auditor of the Territory be and he is hereby directed to issue his warrant on the Treasurer, to be paid out of any money not otherwise appropriated, for the sum of thirteen hundred and eighty-three dollars, being the amount due Frank W. Roberts, for two iron safes, one of which the said Roberts furnished for the use of the office of the Auditor, and one for the use of the office of the Treasurer of the Territory.

Auditor to issue warrants for thirteen hundred and eighty-three dollars in favor of Frank W. Roberts.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 24, 1860.

S. MEDARY,
Governor.

CHAPTER XI.

AN ACT for the relief of George F. Warren.

Be it enacted by the Legislative Assembly of the Territory of Kansas :

SECTION 1. That the sum of three hundred and ninety-three dollars and a half (\$393.50) be and hereby is appropriated out of any moneys in the Territorial treasury, not otherwise appropriated, for the indemnification of George F. Warren for losses sustained in negotiating scrip for the payment of expenses of the Wyandott Constitutional Convention.

Three hundred and ninety-three dollars and a half to Geo. F. Warren

Auditor to issue
warrants.

SEC. 2. That the Auditor of the Territory is hereby instructed to draw his warrant on the Treasurer, in favor of said George F. Warren, for said amount.

SEC. 3. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER XII.

AN ACT for the relief of James R. Whitehead.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

One thousand and
eighty-five dollars
to James R.
Whitehead.

Auditor to issue
warrants.

SECTION 1. That the sum of one thousand and eighty-five dollars be and the same is hereby allowed James R. Whitehead, in full consideration of all claims he has against the Territory of Kansas, not otherwise provided for, and the Territorial Auditor is hereby authorized to draw warrants on the Treasurer for the same, out of any money in the treasury not otherwise appropriated.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER XIII.

AN ACT to regulate Voluntary Assignments with a view to Insolvency.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That all voluntary conveyances, sales, assignments or transfers whatever, of any real estate, chattels real, goods and chattels, rights, credits, moneys or effects whatever, hereafter made, with a view to the insolvency of the assignor, shall be void as against creditors, unless the assignee in all cases shall be a resident of this Territory, and shall, before taking upon himself the several trusts conferred upon him or them, by such conveyances or transfer appointing him, execute to the assignor and the creditors named in such conveyance, a bond, in a penal sum at least double the amount of the value of the assets received under such conveyance or transfer, with sufficient sureties, to be approved by the judge of the probate court of the county where the assignee or assignor resides at the date of the instrument of assignment, conditioned to pay over all moneys that shall come to his or their hands from the effects of the assignor, after deducting the necessary expenses of performing the trust, to the several persons or parties named in the instrument of assignment appointing such assignee or assignees, according to the tenor and effects of such instrument of assignment, which bond shall be filed in the office of register of deeds for the county in which the property assigned is situated.

All assignments, sales, &c, void unless assignee is resident of Territory and execute bond.

Bond filed.

SEC. 2. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER XIV.

AN ACT to amend an Act entitled "An Act providing for the appointment of Territorial Auditor and prescribing the duties of his office."

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Salary of auditor increased.

SECTION 1. That section seven of an act entitled "An Act providing for the appointment of Territorial Auditor and prescribing the duties of his office," be and the same is hereby amended, by striking out, in the first line thereof, the word "eight" and inserting in its stead the word "fifteen," so that the same read "fifteen hundred dollars, and no other compensation whatever," instead of "eight hundred dollars."

Date of annual report.

SEC. 2. That section eight of the said act shall be amended so as to require the Territorial Auditor to bring his annual report up to the thirty-first day of December, instead of up to the first Monday of said month, as now provided.

Acts repealed.

SEC. 3. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 25, 1860.

S. MEDARY,

Governor.

CHAPTER XV.

AN ACT Legalizing certain Bonds, therein named.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Ferry bonds in Leavenworth county approved.

SECTION 1. That the ferry bond executed by Jarett Todd, filed in the office of the clerk of the board of county commission-

ers of Leavenworth county, in this Territory, on the twenty-sixth day of March, in the year one thousand eight hundred and fifty-six, and by said board of commissioners approved April first, A. D. one thousand eight hundred and fifty-six, and the ferry bond executed by David W. Powers, filed in the same office February sixteenth, A. D. one thousand eight hundred and fifty-seven, and by the same board approved February sixteenth, A. D. one thousand eight hundred and fifty-seven, be and the same hereby are confirmed, legalized and made binding and effectual, the same as if said bonds had been filed and approved in strict conformity to the provisions of the law passed by the Legislature of this Territory, in the year one thousand eight hundred and fifty-five, establishing a ferry at Leavenworth city, and the orders of said board of commissioners, approving said bonds, are hereby confirmed, legalized and made binding and effectual, so far as such approval was necessary to secure to the persons named in the act aforesaid and their assigns the privileges and benefits granted by said act.

Approval of commissioners confirmed.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved January 18, 1860.

S. MEDARY,
Governor.

[NOTE.—This being the only Law passed at the General Session it is placed under the appropriate head, among those passed at the Special Session.]

CHAPTER XVI.

AN ACT Explanatory of an Act entitled "An Act Legalizing certain Bonds therein named," approved January 18, A. D. 1860.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the true intent and meaning of an act entitled "An Act legalizing certain Bonds therein named," approved

Original act not to interfere with rights before acquired.

Not to affect any
suits pending at
date of approval.

January 18, A. D. 1860, is hereby declared to be that said act shall not be construed to interfere with any rights vested in and acquired by any person, persons or corporation, their assigns or successors, prior to the approval of said act, by virtue of and under any legislative enactment, or in any manner to affect, impair or modify any litigation which was, at the time of the approval of said act, pending in any of the courts of this Territory, but the same shall be conducted in the same manner and adjudicated on the same principles as if said act had not been passed.

SEC. 2. This act to be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved January 31, 1860.

S. MEDARY,

Governor.

CHAPTER XVII.

AN ACT to Authorize the Board of Supervisors of Doniphan County to issue Bonds.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Supervisors to issue bonds.

Conditions.

Redeemed when, and interest.

SECTION 1. That the board of supervisors of Doniphan county is hereby authorized to issue the bonds of said county, and sell the same for such sum or sums as the board may deem best, at a rate not less than seventy-five cents on the dollar, and to apply the proceeds thereof for the purpose of building a jail and court house at Troy, the county seat of said county, and for no other purpose whatever ; the amount of bonds to be issued under the provisions of this act not to exceed the sum of twenty thousand dollars.

SEC. 2. That said bonds shall be made payable at a time therein named, not to exceed ten years from their date, and shall bear a rate of interest not exceeding ten per centum per annum, payable annually, and no bond shall be issued for a sum less than fifty dollars.

SEC. 3. That said bonds shall be signed by the chairman of the board of county supervisors, in his official capacity, and be attested by the clerk of the county, who shall affix the county seal to each bond and register the same in a book to be kept for that purpose; and when any bond shall have been sold for cash, the proceeds of such sale shall be paid to the county treasurer, and be disbursed on the order of said board, for the purposes aforesaid. How certified, and proceeds how disbursed.

SEC. 4. That the board of supervisors of said county shall, annually, with the other taxes of the county, cause to be levied and collected an amount sufficient to pay and discharge the yearly interest upon said bonds, as the same may become due, and, also, to create a sinking fund which shall be sufficient to pay and discharge said bonds at maturity. How redeemed.

SEC. 5. That, in case of failure to pay the interest on such bonds by the county aforesaid, as the same may become due and payable by the terms of any such bond, then the principal sum of such bond shall, also, become due and payable on the demand of the holder thereof. Failure to pay interest.

SEC. 6. All acts or parts of acts contravening the provisions of this act are hereby repealed. Acts repealed.

SEC. 7. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 16, 1860.

S. MEDARY,

Governor.

CHAPTER XVIII.

AN ACT to Authorize the County of Douglas to issue Bonds.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. The tribunal transacting county business in and for the county of Douglas are [is] hereby authorized to issue the Tribunal authorized to issue bonds

bonds of the county, and to sell and hypothecate the same, and apply the proceeds thereof as hereinafter specified.

For any purpose
and amount.

Proviso.

SEC. 2. Said bonds may be issued for any purpose or purposes whatsoever, and for any amount or amounts whatever ; *Provided, always, however,* That no bonds shall be issued until the tribunal transacting county business shall first have submitted, to a vote of the qualified electors of said county, the question as to whether the bonds of the county shall be issued for such purpose.

Notice to be given
and ballots furn-
ished.

SEC. 3. Whenever the tribunal transacting county business shall deem it expedient to issue the bonds of said county for any purpose whatever, said tribunal shall cause to be issued a notice to the qualified electors of said county, setting forth therein the object or purpose for which the bonds are to be issued and the amount thereof, and of the time when the question will be submitted to the electors of said county, in written or printed handbills, posted up in three of the most public places in each municipal township in said county, for at least thirty days previous to the time fixed for the taking of such vote, and shall, also, cause such notice to be published in the newspaper of largest circulation in said county, for at least three successive weeks previous to such vote. Said tribunal shall, also, cause to be printed and furnished to the inspectors of election, at each voting precinct in said county, ballots enough for the accommodation of all the electors in said precinct ; and the same number of ballots shall be furnished each precinct against the loan as for the loan. Those voting for the loan shall have written or printed upon their ballots "For the loan," and those voting against the loan shall have written or printed upon their ballots "Against the loan."

Ballots how des-
ignated.

Manner of voting

SEC. 4. At the time specified in such notice, a vote of the electors of said county shall be taken, at each of the voting precincts of said county. The inspectors receiving the votes shall be the same as required at the general election, and the votes shall be canvassed by the same officers and in the same manner as required at each general election ; and the result of such vote shall be certified by them and transmitted to the county clerk, within ten days after such vote shall be taken, which certified statement shall be delivered by said clerk to the tribunal transacting county business, at their next meeting. All voting at the several precincts shall be by ballot ; and, if a majority of the votes cast are "Against the loan," no bonds shall be issued.

Result how certi-
fied.

Bonds how re-
deemed.

SEC. 5. It shall be the duty of the said tribunal of the county aforesaid, under the provisions of this act, to cause to be levied

and collected, with the other taxes of said county, a sufficient amount to pay all the interest, as the same shall accrue, upon all the bonds by them issued; and, also, to levy and collect a tax sufficient to create a sinking fund for the final redemption of all such bonds, which taxes, when paid into the county treasury shall be and remain a specific fund for said purposes, and for no other, and shall not be appropriated or used in any other way; and said taxes shall be collected in money.

SEC. 6. It shall be the duty of the tribunal transacting county business, as soon as a sufficient amount of the tax levied to create a sinking fund for the final redemption of the bonds issued in pursuance of this act shall be collected, to appropriate such amount to the payment of such bonds or any of them, and [they] shall take immediate measures to redeem such bonds as far as the amount so collected will apply.

To be redeemed as often as money sufficient accumulates.

SEC. 7. All the bonds issued under the provisions of this act shall have expressed upon their face the object or purpose to which they are to be applied, the amount issued for such object or purpose and the number of the series to which they belong; shall, also, have expressed upon their face and be a part thereof the certificate that a majority of the qualified voters of said county have voted in favor of such issue of bonds for such purpose.

Directions in regard to style of bond.

SEC. 8. All the bonds issued under the provisions of this act shall be signed by the chairman of said tribunal, and be attested by the seal of said county and the signature of the clerk of the said tribunal, and by him registered in a book to be kept for that purpose; and, when any bond, so issued, shall have been sold, the proceeds of such sale shall be paid over to the county treasurer and be disbursed for the purpose expressed upon such bond, and for no other.

How certified and proceeds how disbursed.

SEC. 9. All said bonds shall be made payable at such time and place as the said tribunal shall determine, and shall bear a rate of interest not exceeding ten per centum per annum.

Payable when, and interest.

SEC. 10. Nothing in this act shall be construed to invalidate any vote that the electors of said county have heretofore given concerning the issue of bonds for any purpose; but all such votes for the issue of bonds, as above, shall be considered valid as if taken under a specific order, according to the provisions of of this act.

This act not to affect bonds heretofore issued.

SEC. 11. All acts or parts of acts inconsistent with this act are hereby repealed.

Acts repealed.

SEC. 12. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
 W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER XIX.

AN ACT to Authorize the Tribunal transacting County Business for the County of Johnson to issue Bonds.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Tribunal authorized to issue bonds and for what purpose.

SECTION 1. That the tribunal transacting county business for the county of Johnson is hereby authorized to issue the bonds of said county to the amount of ten thousand dollars, (\$10,000,) and sell the same, and apply the proceeds of such sales to the payment of the present indebtedness of said county, and for the erection of public buildings therein.

Payable when, and interest.

SEC. 2. That such bonds shall be made payable at a time therein named, not to exceed ten years from their date, and shall bear a rate of interest not exceeding ten per centum per annum, payable semi-annually, at such place as may be designated in said bonds ; *Provided*, This act shall not be so construed as to authorize a sale of such bonds at a discount of more than twenty-five per cent.

Proviso.

How redeemed.

SEC. 3. That it shall be the duty of said county tribunal, under the provisions of this act, to cause to be levied and collected, each year, with the other taxes of the county, a sufficient sum to pay the interest on the bonds by them issued, and, also, to provide a sinking fund, for redeeming such bonds, which, when said bonds mature, shall be sufficient for that purpose.

Amount, and to be issued for certain purposes only.

SEC. 4. That no bond shall be issued under the provisions of this act for a less sum than one hundred dollars, nor the proceeds

be applied to any other purpose than that specified in section one of this act.

SEC. 5. That all bonds issued under the provisions of this act ^{How certified.} shall be signed by the chairman of the tribunal transacting county business as such chairman, and be attested by the seal of the county, under the signature of the county clerk, and be, by said clerk registered in a book to be kept for that purpose ; and when any bond so issued shall have been sold, the proceeds of such sale shall be paid over to the county, and disbursed in the same manner that other county funds are disbursed.

SEC. 6. That this act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 24, 1860.

S. MEDARY,

Governor.

CHAPTER XX.

AN ACT to Authorize the County of Leavenworth to issue Bonds for Railroad purposes.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas :*

SECTION 1. That the tribunal transacting county business in and for the county of Leavenworth is hereby authorized to issue the bonds of said county to some railroad company, which shall construct a railroad from the city of Leavenworth westward, in said Territory of Kansas, or said tribunal may take stock in said company; *Provided*, That the amount of bonds issued in [or] stock taken for the county shall not exceed one hundred thousand dollars.

SEC. 2. That, before any bonds shall be issued to any such railroad company or stock taken therein, by said tribunal, for said county, the question of issuing bonds or taking stock shall

be submitted to the electors of said county, at an election to be held for such purpose.

Election how ordered.

SEC. 3. That the tribunal transacting county business, upon an application of fifty legal voters of said county, may appoint a day upon which an election shall be held for the purpose of ascertaining whether said county should issue its bonds to or take stock in a railroad company, as provided in the first section of this act. Twenty days' notice shall be given of such election, by publication in two newspapers, published in said county, and by handbills in at least two public places in each township in said county, which notice shall specify the amount of bonds to be issued or stock taken; and, if two-thirds of the votes given at such election shall be in favor of issuing bonds or taking stock, the tribunal may issue bonds to or take stock in such railroad company to the amount named in the notice.

Notice to be given.

Election how conducted.

SEC. 4. That the election referred to in the preceding section shall be conducted in all respects according to the laws regulating general elections. Upon the ballots shall be printed or written the words "For subscription" or "Against subscription."

Stock when taken and bonds how negotiated.

SEC. 5. That, should two-thirds of the votes cast at said election authorize the taking of stock in the railroad company described in this act, said stock may be subscribed by the tribunal transacting county business, and paid for in the bonds of the county, which bonds shall not be sold or negotiated by said railroad company for a sum less than eighty cents on the dollar.

Interest, and when payable.

SEC. 6. That the bonds which may be issued in pursuance of this act shall not bear a rate of interest greater than ten per centum per annum, and shall be payable in not less than fifteen years or more than twenty years from the date of their issue.

How redeemed.

SEC. 7. That the tribunal transacting county business shall, with the other taxes of said county, cause to be levied and collected an amount sufficient to pay the interest upon the bonds, as the same may accrue, and, also, cause to be levied and collected a tax sufficient to create a sinking fund for the final redemption of such bonds, which taxes, when paid into the county treasury, shall be and remain a specific fund for such purposes only, and shall not be appropriated or used in any other way; and said taxes shall be collected in money.

Tribunal to appoint agent to represent county.

SEC. 8. That the tribunal transacting county business, if stock be by said county taken, shall appoint an agent, who shall represent such stock in all meetings of such railroad company, under the control and subject to the control of said tribunal.

SEC. 9. It shall be the duty of the county tribunal, as soon as a sufficient amount of the tax levied to create a sinking fund for the final redemption of the bonds issued in pursuance of this act shall be collected, to appropriate such amount to the payment of such bonds or any of them, and shall take immediate measures to redeem such bonds as far as the amount so collected will apply. Redeemed when sufficient money accumulates.

SEC. 10. All acts and parts of acts inconsistent with this act are hereby repealed. Acts repealed.

SEC. 11. This act to take effect from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 18, 1860.

S. MEDARY,

Governor.

CHAPTER XXI.

AN ACT to Authorize the County of Leavenworth to issue certain Bonds.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That the tribunal transacting county business in and for the county of Leavenworth is hereby authorized to issue the bonds of said county, and to sell or hypothecate the same, and apply the proceeds thereof for the purpose hereinafter specified. Tribunal authorized to issue bonds.

SEC. 2. Said bonds, or the proceeds of the sale or hypothecation thereof, shall be applied by said tribunal to the taking up and satisfaction of all bonds and county orders, with the interest thereon, which shall be as outstanding debts of said county at the time of issuing the bonds herein provided for. To be used in bonding debts of county.

SEC. 3. That said bonds shall be made payable at a time therein named, not less than fifteen nor more than twenty years from their date, and shall bear a rate of interest not exceeding ten per centum per annum; but this section shall not be construed to authorize a sale of such bonds at a discount of more thirty per centum. When payable, and interest.

How redeemed.

SEC. 4. That it shall be the duty of said tribunal of the county aforesaid, under the provisions of this act, to cause to be levied and collected, each year, with the other taxes of said county, a sufficient amount to pay the interest, as the same accrues on the bonds by them issued, and, also, to levy and collect a tax sufficient to create a sinking fund for the final redemption of such bonds ; which taxes, when paid into the county treasurer, shall be and remain a specific fund for said purposes only, and shall not be appropriated or used in any other way ; and said taxes shall be collected in money.

Amount, and to be applied to no other purpose.

SEC. 5. That no bonds shall be issued under the provisions of this act for a less sum than one hundred dollars, nor shall the proceeds thereof be applied in any other way than for the purposes specified in the second section of this act.

How certified, and proceeds how disbursed.

SEC. 6. That bonds issued under the provisions of this act shall be signed by the chairman of the said tribunal, and be attested by the seal of the said county, and the signature of the clerk of said tribunal, and by him registered in a book to be kept for that purpose ; and, when any bond so issued shall have been sold, the proceeds of such sale shall be paid over to the county treasurer, and be disbursed for the purposes hereinbefore specified, and no other.

Total amount.

SEC. 7. The amount of bonds issued under the provisions of this act shall not exceed fifty thousand dollars.

Acts repealed.

SEC. 8. That this act shall take effect and be in force from and after its passage, and all provisions of law contravening the provisions of this act are hereby repealed.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER XXII.

AN ACT Relating to the Issue of certain Bonds by the County of Leavenworth.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the commissioners of Leavenworth county, whenever they shall deem it expedient or necessary, shall be authorized and empowered to issue the bonds of said county to the amount of thirty-five thousand dollars, for the purpose of erecting county buildings for said county, and the provisions of sections sixteen and seventeen (16 and 17) of an act entitled "An Act relating to Counties and County Officers," approved February, 1860, shall be and they are hereby declared to have been fully complied with. Commissioners authorized to issue bonds.

SEC. 2. That it shall be the duty of said county commissioners, when any of the bonds provided for in section one are issued, to cause to be levied and collected, with the other taxes of said county, a sufficient amount to pay all the interest, as the same shall accrue, on all such bonds by them issued, for the purposes set forth in section one of this act, and, also, to levy and collect a tax sufficient to create a sinking fund for the final redemption of all such bonds, in the same manner and at the same time as the tax for the interest, which taxes, when paid into the county treasury, shall be and remain a specific fund for said purpose, and for no other, and shall not be appropriated in any other way; and said taxes shall be collected in money. How redeemed.

SEC. 3. That it shall be the duty of the commissioners of said county, as soon as a sufficient amount of the tax levied to create a sinking fund for the final redemption of the bonds issued in pursuance of the above mentioned act shall be collected, to appropriate such amount to the payment of such bonds or any of them, and [they] shall take immediate measures to redeem such bonds as far as can be done by the amount collected. Redeemed when sufficient money accumulates.

SEC. 4. All the bonds issued by said commissioners under the provisions of this act shall have expressed upon their face the object or purpose to which they are to be applied, the number of the bond, and the time and place of the payment of the principal and interest of said bond, and the rate of interest such bond shall bear. Directions as to contents.

How certified and
proceeds how dis-
bursed.

SEC. 5. That all the bonds issued under the provisions of section one of this act shall be signed by the chairman of the board of commissioners and be attested by their clerk and the seal of the county, and shall be by him registered in a book to be kept for that purpose ; and when any bond so issued shall have been sold, the proceeds of such sale shall be paid over to the county treasurer, and be disbursed for the purpose expressed upon such bond, and no other.

Payable when,
and interest.

SEC. 6. That such bonds shall be made payable at such time and place as the said commissioners shall determine, and shall bear a rate of interest not exceeding ten per centum per annum.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 25, 1860.

S. MEDARY,

Governor.

CHAPTER XXIII.

AN ACT to Authorize the City of Leavenworth to issue Bonds for Railroad purposes.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

City council au-
thorized to issue
bonds to railroad
company.

SECTION 1. That the city council of Leavenworth city, in the county of Leavenworth and Territory of Kansas, is hereby authorized to issue the bonds of said city to some railroad company, which shall construct a railroad from the city of Leavenworth westward, in the direction of Lawrence, in said Territory of Kansas ; or said city council may take stock in such railroad company ; *Provided*, That the amount of bonds issued or stock taken for the city shall not exceed one hundred thousand dollars.

Proviso.

Submitted to vote

SEC. 2. That, before any bonds shall be issued to any such railroad company, or stock taken by said city council for said city, the question of issuing bonds or taking stock shall be submitted to the electors of said city, at an election to be held for that purpose.

SEC. 3. That the city council of said city, upon an application of fifty legal voters of said city, may appoint a day upon which an election shall be held for the purpose of ascertaining whether said city shall issue its bonds to or take stock in a railroad company, as provided in the first section of this act. Twenty days' notice of such election shall be given, by publication in two of the newspapers published in said city, which notice shall specify the amount of bonds to be issued or stock to be taken; and, if two-thirds of the votes given at such election shall be in favor of issuing bonds or taking stock, the city council may issue bonds to or take stock in such railroad company to the amount named in the notice.

Election how ordered.

Notice given.

SEC. 4. That the election referred to in the preceding section shall be conducted in all respects according to the ordinances regulating all other city elections in said city. Upon the ballots shall be printed or written the words "For subscription" or "Against subscription."

Election how conducted.

SEC. 5. That, should two-thirds of the votes cast at said election authorize the taking of stock in such railroad company, said stock may be subscribed by the city council and paid for in the bonds of said city, which bonds shall not be sold or negotiated by said railroad company for a sum less than seventy-five cents on the dollar.

Bonds when issued and how negotiated.

SEC. 6. That the bonds which may be issued in pursuance of this act shall not bear a rate of interest greater than ten per centum per annum, and shall be made payable in not less than fifteen nor more than twenty years from the date of their issue.

Interest, and when payable.

SEC. 7. That the city council of said city shall cause to be levied and collected, with the other taxes of said city, an amount of tax sufficient to pay the interest on the said bonds, as the same may accrue. They shall, also, cause to be levied and collected, with the other taxes of said city, a tax sufficient to create a sinking fund for the final redemption of such bonds, which taxes, when paid into the city treasury, shall be and remain a specific fund for such purposes only, and shall not be appropriated or used in any other way; and the said taxes, for the paying of the interest and providing for a sinking fund, shall be collected in money.

How redeemed.

SEC. 8. That the interest on said bonds shall be paid annually, out of the fund mentioned in section seven, at the time and place mentioned on the face of said bonds.

Interest paid annually.

SEC. 9. That it shall be the duty of the treasurer of said city, under the direction of the city council, to apply all the moneys

Redeemed when money sufficient accumulates.

paid into said sinking fund to the payment and liquidation of said bonds, whenever so much as five hundred dollars accumulates in said fund.

Amount, how certified, &c.

SEC. 10. That the bonds hereinbefore provided for shall not be issued in sums of less than one hundred dollars each, and shall be signed by the mayor of said city, and be attested by the auditor and city clerk, and shall specify upon their face the amount for which they are issued, the rate of interest they are to bear, and when and where the interest and the principal are to be paid.

Auditor to keep correct registry of bonds.

SEC. 11. That it shall be the duty of the auditor of said city, in a book to be kept for that purpose, to keep a correct register of the number of each bond as issued, the amount of same, the rate of interest, to whom payable, and when and where the interest is payable; and, also, to keep a correct register of each bond, as paid and cancelled; also, of the amount of interest paid on each bond, and the time of each payment of the same.

Council elect agent to represent city.

SEC. 12. That the city council of said city, if stock be by said city taken in said railroad, shall elect an agent, who shall represent such stock in all meetings of such railroad company, under the direction and subject to the control of said city council.

Acts repealed.

SEC. 13. That this act shall take effect and be in force from and after its passage; and all laws and parts of laws inconsistent with this act or any of its provisions are hereby repealed.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 24, 1860.

S. MEDARY,

Governor.

CHAPTER XXIV.

AN ACT to Provide for the Incorporation of Building Loan Associations.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Number of members and purposes.

SECTION 1. That any number of persons, not less than nine, may associate and become, in the manner hereinafter prescribed,

an incorporate association; for the purpose of accumulating a fund to enable its respective members to purchase houses and lots, erect buildings, improve lands, and to remove incumbrances from real estate, and for the further purpose of distributing among the members, who do not receive aid by advances on their shares, for the objects aforesaid, their proper dividend of the fund so accumulated in money.

SEC. 2. Persons who wish to form such an association shall severally sign articles of association, which shall specially state the name of the association, the place in which its business is to be transacted, the number of shares of capital stock, and the ultimate or par value of each share of stock, and shall, also, contain the constitution, rules, regulations and by-laws of the association, which shall not be inconsistent with the constitution and laws of this Territory or of the United States. The whole capital stock or ultimate par value of the whole number of shares shall not exceed two hundred thousand dollars, and the ultimate or par value of each share shall not exceed two hundred dollars.

Articles of association.

Capital stock.

SEC. 3. The officers of every such association shall be a president, four directors, a treasurer, a secretary and three trustees. The president and directors shall constitute a board to manage the affairs of the association, with such powers as the articles shall prescribe. The duties of the treasurer shall be prescribed by the by-laws of said association. The trustees shall hold the title, for the association, of all its real estate and of all real estate conveyed to secure debts due the association, and shall convey and release the same by order of the board of managers, as may be required by the articles. The board shall take from all the officers and trustees of the association bonds, with security, payable to the association, by its corporate name, in such penalty as they may require.

Officers and their duties.

Give bonds.

SEC. 4. A true copy of the articles, as are mentioned in the second section, signed by the officers and trustees of the association, together with a statement showing the date of its organization, and that the persons whose names are appended to the articles are the officers of the association, verified by the oath of the president and secretary, shall be recorded in the court of the county or corporation in which such association shall transact its business; and, thereupon, the persons who shall have subscribed the articles of association, and such other persons who shall become members thereof, and their successors shall be a body corporate by the name specified in such articles, and shall, in all

Copy of articles to be recorded.

Members body corporate and bound by articles

Privileges.	respects, be bound and governed by such articles of association and any thereto made in conformity to the same. Any such association shall be capable in law of purchasing, holding and conveying any real estate and personal property which may be necessary for the business and purposes set forth in the articles of association ; but such association shall not, at any one time, hold real estate exceeding in quantity five acres, except such as may be received in satisfaction of debts, and the clear yearly value of income on all real estate owned by such association (other than that conveyed to its trustees as security for its advances and loans) shall not exceed one thousand dollars.
Subscriptions not paid.	SEC. 5. It shall be lawful for the proper officer, to be designated in such articles, to call in and demand from the stockholders respectively the sums of money subscribed by them, at such time and in such payments as the articles of association shall prescribe ; and for failure to pay such sums so demanded, the articles may provide for the forfeiture to the association of the stock of the delinquent stockholders.
Parents may take stock for children when.	SEC. 6. Parents may take and hold shares in any such association for the use of their minor children, in case such shares are paid for by the personal earnings of said children, or by gifts made for such purposes. Married women, with the consent, in writing, from their husbands first obtained and recorded on the books of the association, may take and hold, for their separate use, shares in any such association. Such shares, so taken or held, shall be exempt from the liabilities, debts or contracts of their husbands, in case the same are paid for by the personal earnings of said married women, or by those of their children voluntarily bestowed for this purpose, or by gifts made to them by persons other than their husbands, and not otherwise ; and any real estate acquired by the proceeds of such shares shall be held, by such married women, in like manner exempt from the liabilities, debts or contracts of their husbands.
Married women when.	
Such shares how held.	
Associations exist when.	SEC. 7. Every such association, unless sooner dissolved by a vote of a majority of the stockholders, shall continue in being until the fund accumulated, including shares redeemed and all property, money and other effects shall amount to such a sum as will enable the association to divide on each share a sum equal to the par value or ultimate value of the shares, as agreed upon in the articles, and no longer ; and, in such estimate, the redeemed shares shall be valued at their par or ultimate value. No dividend of principal or profits shall be made, except at the termination of the association.

SEC. 8. It shall be lawful for the association to redeem the shares held by the stockholders respectively, upon such terms and under such regulations as may be prescribed in the articles; but [such] association shall in no way receive or demand from any stockholder interest exceeding the rate of six per centum per annum upon the sum actually paid by such association to such stockholder, for the shares so redeemed and bought in. Nothing herein contained shall be construed to prevent the association from receiving and demanding from any stockholder, whose shares have been redeemed, any regular payments on stock, as may be required by the articles, and any fines that may be imposed on him in accordance with such articles.

May redeem
shares when.

Payments and
fines.

SEC. 9. Any existing association, formed for the purposes mentioned in this act, may, by complying with its provisions, become entitled to its benefits.

Associations now
existing.

SEC. 10. If any of the directors or any other officers of any association incorporated under this act shall use, dispose of or invest any money or property belonging to such association, otherwise than is prescribed by this act or by the articles recorded as aforesaid, every such director or officer who authorized, made or sanctioned such use, disposition or investment, shall be liable to the association or to the person injured for all losses and damages incurred by reason of such unlawful use, disposition or investment.

Officers liable for
improper acts.

SEC. 11. If any officer, trustee, attorney, agent or servant of any such association shall apply to his own use, or shall, without due authority, assign, transfer, cancel or deliver up, or acknowledge satisfaction of any bond, mortgage, deed of trust or any other written instrument belonging to such association, or shall be guilty of any fraud in the performance of his duties, he shall be liable to the association or to any person injured for the damages thereby incurred, and shall, also, be deemed guilty of a misdemeanor; and, upon conviction of any such offense, he shall be fined in a sum not exceeding one thousand dollars, and be imprisoned in the county jail for a time not exceeding one year.

Same.

Penalty.

SEC. 12. There shall be a general meeting of all the stockholders of every association incorporated under this act, on the first Thursday of January, in each year, for the purpose of electing the officers of the association for the ensuing year; but if, for any cause, such meeting be not held on the day aforesaid, the association shall not, for that reason, be dissolved, but the officers and trustees previously elected shall continue in office

Annual meeting.

until their successors are elected, at some other meeting of the stockholders, to be provided for in the articles of association.

Annual statement

The stockholders, at every such general, or in case there be no such general meeting, then the president and directors of such association, shall cause to be published, during the month of January, every year, in one or more newspapers published in or near to the place of business, a statement, verified by the oath or affirmation of the president and secretary of the association, showing the actual financial condition of the association, brought down to the thirty-first of December, of the preceding year. Such statement shall exhibit the amount of money on hand, the number of shares redeemed, the amount due to the association, and its liabilities, if any ; the value of its property and the estimated value of each share of stock.

Articles how amended.

SEC. 15. The articles of any association may be amended in such manner as may be prescribed therein ; but every such amendment shall be certified by the president and secretary, and be recorded in the court in which the original articles are recorded.

Legislature may amend or repeal this act, and its effect.

SEC. 16. The Legislative Assembly may, at its pleasure, amend, modify or repeal this act, and may dissolve any association incorporated under its provisions. Every modification or amendment of this act shall be deemed to modify or amend the charter of every association that may be incorporated under this act ; but no act to modify, amend or repeal this act, or to dissolve any such association, shall take away or impair any remedy existing at the time of the passage of such act against such association, or deprive such association of the power to sell its property, foreclose its mortgages, collect its debts, distribute its effects and to perform, in its corporate capacity, all other acts necessary to close its business.

SEC. 17. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 25, 1860.

S. MEDARY,

Governor.

CHAPTER XXV.

AN ACT to Regulate Chattel Mortgages and Bills of Sale of Personal Property.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That every mortgage or conveyance, intended to operate as a mortgage of goods and chattels, hereafter made, which shall not be accompanied by an immediate delivery and be followed by an actual and continued change of possession of the things mortgaged, shall be absolutely void as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith, unless the mortgages or a true copy thereof shall be forthwith deposited in the office of the register of deeds, in the county where the property shall then be situated; but, if the mortgagor be a resident of this Territory, then in the county of which he shall, at the time, be a resident. Mortgages void when.

SEC. 2. Upon the receipt of any such instrument, the register receiving it shall file the same, by indorsing on the back thereof the time of receiving it, and shall deposit the same in his office, to be kept there for the inspection of all persons interested. How filed.

SEC. 3. Every mortgage so filed shall be void as against the creditors of the person making the same, or against subsequent purchasers or mortgagees in good faith, after the expiration of one year after the filing thereof, unless, within thirty days next preceding the expiration of the term of one year, a true copy of such mortgage, together with a statement exhibiting the interest of the mortgagee in the property, at the time last aforesaid, claimed by virtue of such mortgage, shall be again filed in the office of the register of deeds where said mortgage had been filed. Void, secondly, when.

SEC. 4. A copy of any such original instrument or any copy thereof, so filed as aforesaid, including any statement made in pursuance of this act, certified by the register in whose office the same shall have been filed, shall be received in evidence, but only of the fact that such instrument or copy and such statement was received and filed according to the indorsement of the register thereon, and of no other fact; and, in all cases, the original, by the register made in pursuance of this act, upon such instrument or copy, shall be received in evidence only of the facts stated in such indorsement. Copy received as evidence.

Fees of register.

SEC. 5. For services under this act, the register shall be allowed to receive the following fees: For filing each instrument or copy, ten cents; and the like fees for certified copies of such instruments or copies as are allowed by law to such registers for copies and certificates of other records kept by them.

SEC. 6. This act to be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 25, 1860.

S. MEDARY,

Governor.

CHAPTER XXVI.

AN ACT to amend an Act entitled "An Act to establish a Code of Civil Procedure."

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Section 60
amended.

SECTION 1. That section sixty of an act entitled "An Act to establish a Code of Civil Procedure," approved February 11th, A. D. 1859, be amended so as to read as follows: "Sec. 60. Every other action must be brought in the county in which the defendants or some of the defendants reside."

Section 185
amended.

SEC. 2. That section one hundred and eighty-five of the same act be amended so as to read as follows: "SEC. 185. An order for the delivery of property to the plaintiff shall be made by the clerk of the court in which the action is brought, when there is filed in his office an affidavit of the plaintiff, his agent or attorney, showing: First, A description of the property claimed. Second, That the plaintiff is the owner of the property, or has special ownership or interest therein, stating the facts in relation thereto, and that he is entitled to the immediate possession of the property. Third, That the property is wrongfully detained by the defendant. Fourth, That it was not taken in execution on any order or judgment of any court in this Territory, or for

the payment of any tax, fine or amercement, or by virtue of any order of delivery issued under this chapter, or any other mesne or final process. Fifth; If the property has been sold on final process, that it was taken and sold in the absence of the plaintiff from the county in which such sale was made, and without his knowledge. Sixth, If taken in execution on any order or judgment against the plaintiff, that it is exempt by law from being so taken."

SEC. 3. That section five hundred and two be amended so as to read as follows: "Sec. 502. Such judgment shall have a lien on the real estate of the judgment debtor from the day of the filing of the transcript, in the same manner and to the same extent as if the judgment had been rendered in the district court." Section 502 amended,

SEC. 4. That section five hundred and twenty-six is hereby amended as follows: "Sec. 526. The supreme court shall have authority to reverse, vacate or modify a judgment of a district court for errors appearing in the record; and, in the review of such judgment, to review any intermediate order involving the merits of the action or any portion thereof. The supreme court shall, also, have authority to reverse or modify any of the following orders of the district court: First, A final order, as defined in section No. 524. Second, An order that grants or refuses, continues, discharges or modifies a provisional remedy, or grants, refuses or dissolves an injunction or attachment; that grants or refuses a new trial, or that sustains or overrules a demurrer. Third, An order that involves the merits of an action or some part thereof. The proceeding to reverse, vacate or modify the orders mentioned in sub-divisions two and three shall be commenced within thirty days after notice of the same." Section 526 amended,

SEC. 5. That section five hundred and thirty-six is hereby amended so as to read as follows: "Sec. 536. No proceeding to reverse, vacate or modify any judgment or final order of a justice of the peace shall operate as a stay of execution, unless the clerk of the district court, in which such proceeding is commenced, shall take a written undertaking to the defendant in error, executed on the part of the plaintiff in error, by one or more sureties, to be approved by the clerk, and to take effect: First, When the judgment directs the payment of money, that the plaintiff will pay all costs which have accrued or may accrue in such proceedings in error, together with the amount of any judgment that may be rendered against the plaintiff in error, either upon and after the affirmance thereof in the district court, or on the further

trial of the case in such court, after the judgment of the court below shall have been set aside or reversed. Second, When the judgment directs the delivery of the possession of such property by the plaintiff in error, he will not commit or suffer to be committed any waste thereon ; and, if the judgment be affirmed by the court above, or if judgment be rendered against the plaintiff upon the further trial of the case, after the judgment of the court below shall have been set aside or reversed, that he will pay the value of the use and occupation of the property, from the date of the undertaking until the delivery of the property, pursuant to the judgment, and all damages and costs that may be awarded against him."

"Stock in trade" means what.

SEC. 6. Whenever the words "stock in trade" occur in the act aforesaid, they shall be construed to mean the same as the words "goods and chattels."

Sections 60, 185, 502, 526 and 536 repealed.

SEC. 7. Sections sixty, (60,) one hundred and eighty-five, (185,) and five hundred and two, (502,) and five hundred and twenty-six, (526,) and five hundred and thirty-six (536) of said act are hereby repealed.

SEC. 8. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 25, 1860.

S. MEDARY,

Governor.

CHAPTER XXVII.

AN ACT to amend an Act entitled "An Act to establish a Code of Civil Procedure."

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Sections 116, 117, 118, 119, 120, 121, 122 and 123 repealed.

SECTION 1. That sections one hundred and sixteen, one hundred and seventeen, one hundred and eighteen, one hundred and nineteen, one hundred and twenty, one hundred and twenty-one, one hundred and twenty-two and one hundred and twenty-three

of the act to which this is an amendment be and the same are hereby repealed.

SEC. 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Acts repealed.

SEC. 3. This act to take effect from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER XXVIII.

AN ACT Relating to Counties and County Officers.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That each organized county within this Territory shall be a body corporate and politic, and as such shall be empowered for the following purposes: First, To sue and be sued. Counties bodies corporate and politic. Second, To purchase and hold real and personal estate for the use of the county, and lands sold for taxes as provided by law. Powers. Third, To sell and convey any real or personal estate owned by the county, and make such order respecting the same as may be deemed conducive to the interests of the inhabitants. Fourth, To make all contracts and do all other acts in relation to the property and concerns of the county, necessary to the exercise of its corporate or administrative powers. Fifth, To exercise such other and further powers as may be especially conferred by law.

SEC. 2. Any real or personal estate heretofore or which may be hereafter conveyed to any county shall be deemed the property of such county. Property of county.

SEC. 3. The powers of a county as a body politic and corporate shall be exercised by a board of county commissioners therefor. Powers how executed.

SEC. 4. Each county organized for judicial purposes shall, at its own expense, provide a suitable court house and a suitable and To erect county buildings.

sufficient jail, and fire proof offices and other necessary county buildings, and keep the same in repair.

Sue in what name.

SEC. 5. In all suits or proceedings by or against a county, the name in which the county shall sue or be sued shall be the "Board of County Commissioners of the County of ———," (the name or the county;) but this provision shall not prevent county officers, where authorized by law, from suing in their name of office for the benefit of the county.

Process served how.

SEC. 6. In all legal proceedings against the county, process shall be served on the clerk of the board of county commissioners; and, whenever such suit or proceeding shall be commenced, it shall be the duty of the clerk forthwith to notify the county attorney thereof, and to lay before the board of county commissioners, at their next meeting, all the information he may have in regard to such suit or proceeding.

Duty of clerk.

Inhabitants witnesses.

SEC. 7. On the trial of any suit in which a county may be interested, the inhabitants of such county shall be competent witnesses and jurors, if otherwise competent and qualified according to law.

Judgment assessed and collected as a tax.

SEC. 8. When a judgment shall be rendered against the board of county commissioners of any county, or against any county officer, in an action prosecuted by or against him, in his name of office, where the same should be paid by the county, no execution shall issue upon said judgment, but the same shall be levied and collected by tax, as other county charges, and, when so collected, shall be paid by the county treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor: *Provided*, That execution may issue on said judgment, if payment be not made within sixty days after the time required for the payment of county taxes to the county treasurer, by the proper officers of said county, in each year.

Proviso.

Commissioners.

SEC. 9. The board of county commissioners shall consist of three qualified electors, any two of whom shall be competent to transact business, to be elected by the qualified electors of the several counties respectively, at the general election, on Tuesday after the first Monday in November, annually; and, whenever a vacancy occurs in the office of said commissioner before the expiration of the term, the remaining commissioner or commissioners, together with the county clerk, shall choose some person to fill said vacancy, until the next general election.

Vacancy.

How elected.

Term of office.

SEC. 10. At the first election held to choose the first board of county commissioners of any county, the person having the high-

est number of the votes shall continue in office three years, the next highest two years, and the next highest one year; but, if two or more persons have the same number of votes, then their terms shall be determined by lot, under the direction of the board of canvassers returning the election; and, annually thereafter, one commissioner shall be elected and shall continue in office three years, [and] until his successor is elected and qualified; *Provided*, This shall not apply to the county commissioners who shall be elected on the fourth Monday in March, 1860, in accordance with the one hundred and twenty-ninth section of this act. Proviso.

SEC. 11. Each county shall be divided, by the present county board of supervisors holding office, into three compact districts, as equal in population as possible, numbered respectively one, two and three, and not subject to alteration oftener than once in three years; and one commissioner shall be elected from each of such districts, by the voters of the whole county, as hereinbefore provided; but if, in any county, the aforementioned board of supervisors shall fail to make such division before the first election for county commissioners provided for in this act, such failure shall, in no case, prevent the election of said commissioners, who shall, within six months after their election, make the said division of the county into districts. County divided for election purposes.

SEC. 12. Said board of county commissioners shall meet at the county seat of each county, on the first Mondays in January, April, July and October, in each year; and, in counties the population of which is under ten thousand, such commissioners may sit six days at each term; but, if the population exceed ten thousand, they may sit nine days, should the business require it. Meet when and sit how long.

SEC. 13. Each person elected as such commissioner shall, on receiving a certificate of his election, take an oath to support the Constitution of the United States and the Organic Act of this Territory, and to perform the duties of his office to the best of his ability, which oath, being indorsed upon said certificate, under the hand and seal of the person administering it, shall be sufficient for said person to act as said commissioner. Take oath.

SEC. 14. Each member of the board of county commissioners shall be paid by the county a compensation for his services and expenses in attending the meetings of said board, at the rate of three dollars per day, for the time he shall actually attend, as hereinbefore limited and prescribed, and including the time necessary in going to and returning from the same. Compensation.

SEC. 15. The board of county commissioners of each county Powers.

shall have power, at any meeting: First, To make such orders concerning the property belonging to the county, as they may deem expedient. Second, To examine and settle all accounts of the receipts and expenses of the county, and to examine and settle and allow all accounts chargeable against the county, and, when so settled, they may issue county orders therefor, as provided by law. Third, To build and keep in repair county buildings, and cause the same to be insured in the name of the county treasurer, for the benefit of the county; and, in case there are no county buildings, to provide suitable rooms for county purposes. Fourth, Apportion and order the levying of taxes as provided by law, and to borrow, upon the credit of the county, a sum sufficient for the erection of county buildings, or to meet the current expenses of the county, in case of a deficit in the county revenue. Fifth, To represent the county and have the care of the county property, and the management of the business and concerns of the county, in all cases where no other provision is made by law. Sixth, To set off, organize and change the boundaries of townships in their respective counties, to designate and give names therefor, and to fix the time and place of holding the first election therein. Seventh, To establish one or more election precincts in any township, as the convenience of the inhabitants thereof may require. Eighth, To lay out, alter or discontinue any road running through one or more townships in such county, and, also, to perform such other duties respecting roads as may be required by law. Ninth, To alter or change the route of any Territorial road within their respective counties. Tenth, To grant licenses for keeping ferries in their respective counties, and such other licenses as may be prescribed by law. Eleventh, To perform such other duties as are or may be prescribed by law.

Borrow money
when.

SEC. 16. The board of county commissioners shall not borrow money for the purposes specified in the fourth subdivision of section fifteen of this act, without having first submitted the question of such loan to a vote of the electors of the county.

How submitted
to people.

SEC. 17. Whenever it shall become necessary, under the provisions of this act, to submit to a vote of the electors of any county, the question of raising any sum of money by loan, the said board, after having determined the sum necessary to be raised, shall cause notice of such determination, and of the time when the question will be submitted to the electors of such county, by written or printed handbills, posted up in five of the most public places in each township, for at least thirty days previous to the time fixed for the taking of such vote.

SEC. 18. At the time specified in such notice, a vote of the electors of such county shall be taken in each of the townships in such county, at the place designated in the notice. The inspectors receiving the votes shall be the same as required at the general election, and the vote shall be canvassed by the same officers and in the same manner as required at such general election, and the result of such vote shall be certified by them, and transmitted to the county clerk, within ten days after such vote shall be taken, which certified statement shall be delivered by such clerk to the board of commissioners, at their next meeting. All voting in the several townships, as provided in this section, shall be by ballot, and those voting in favor of such proposed loan shall have written or printed on their ballots, "For the loan;" and those voting against the loan shall have written or printed on their ballots, "Against the loan;" and, if a majority of the votes cast at such election be against the loan, it shall not be made.

Election how conducted.

SEC. 19. The board of county commissioners shall not set off or organize any new township, unless it shall contain territory equal to at least thirty-six square miles, and at least three hundred inhabitants within the limits thereof, except when an incorporated city or town is included in the limits of said township; nor shall any township be set off and organized, unless a petition be first presented to the board, signed by at least fifty citizens resident therein. This section shall not apply to the counties of Morris, Chase and Butler.

New townships.

SEC. 20. The board of county commissioners shall alter and change the township organization of their county, so as to agree with the standard fixed in the preceding sections, in respect to territory and population, if such change be desired by the citizens of the county, by a petition of a majority of legal voters.

Change townships when.

SEC. 21. Any [every] board of county commissioners shall have a seal, and may alter the same at pleasure. They shall sit with open doors, and all persons conducting in an orderly manner may attend their meetings, and they may establish rules and regulations to govern the transaction of their business.

Seal and rules for meeting.

SEC. 22. They shall, at the first meeting after their election, and after every annual election, choose one of their number chairman, who shall preside at such meeting, and all other meetings during the year, if present; but, in case of his absence from any meeting, the members present shall choose one of their number as temporary chairman.

Presiding officer of board.

SEC. 23. The chairman of said board shall have power to ad-

Powers.

minister oaths to any person, concerning any matter submitted to the board or connected with their powers and duties, and he shall sign all county orders.

Accounts allowed
when.

SEC. 24. No account shall be allowed by the board of county commissioners, unless the same shall be made out in separate items, and the nature of each item stated, and where no specific fees are allowed by law, the time actually and necessarily devoted to the performance of any service charged in such account shall be specified, which account, so made out, shall be verified by affidavit: *Provided*, That nothing in this section shall be construed to prevent any such board from disallowing any account, in whole or in part, when so rendered and verified, nor from requiring any other or further evidence of the truth and propriety thereof, as they may think proper.

Proviso.

County orders.

SEC. 25. County orders shall be signed by the chairman and attested by the clerk, and shall specify the nature of the claim or service for which they were issued.

Claims disallow-
ed—appeal.

SEC. 26. When any claim of any person against a county shall be disallowed, in whole or in part, by the board of commissioners, such person may appeal from the decision of such board to the district court for the same county, by causing a written notice of such appeal to be served on the clerk of such board, within thirty days after the making of such decision, and executing a bond to such county, with sufficient security, to be approved by the clerk of said board, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant.

Duty of clerk
when appeal
taken.

SEC. 27. The clerk of the board, upon such appeal being taken, shall immediately give notice thereof to the county attorney, and shall make out a brief return of the proceedings in the case before the board, with their decision thereon, and shall file the same, together with the bond and all the papers in the case in his possession, with the clerk of the district court; and such appeal shall be entered, tried and determined the same as appeals from justices' courts, and costs shall be awarded thereon in like manner.

Board to furnish
certain articles
to officers.

SEC. 28. The board of commissioners of their respective counties shall, at the expense of the county, furnish, annually and in due season, to the assessor of the county, suitable blank assessment rolls for the several townships, prepared in accordance with the provisions of law, and shall, also, provide suitable books and stationery for the use of each of the county officers of their

county, together with appropriate cases and other furniture for the safe and convenient keeping of all the books, documents and papers belonging to each of said officers, and, also, official seals for each of said officers, where the same are required by law.

SEC. 29. The board of county commissioners, at their annual Annual examination of orders July session of each year, or oftener, if they deem it necessary, shall carefully examine the county orders returned by the county treasurer, by comparing each order with the record of orders in the clerk's office. They shall cause to be entered on said record, Record of orders. opposite to the entry of each order issued, the date when the same was canceled. They shall, also, make a list of the orders so canceled, specifying the number, date, amount and the person to whom the same was payable, and enter the same on the journal of the board.

SEC. 30. The boards of commissioners of their respective Annual report. counties shall cause to be made out and published, yearly, in at least one newspaper in their county, if such there be, a report of receipts and expenditures of the year next preceding, and the amounts allowed; but, if there be no newspaper printed in said county, their said statements shall be posted in at least five public places in said county.

SEC. 31. If any commissioner shall refuse or neglect to perform any of the duties which are or shall be required of him by law, as a member of the board of county commissioners, without just cause therefor, he shall, for each offense, forfeit a sum not less than twenty-five nor more than one hundred dollars. Neglect of duty.

SEC. 32. Whenever any board of commissioners shall organize New townships. new townships, or alter the boundaries of any townships in their county, they shall cause a plat and record thereof to be made by their clerk, specifying the name and boundaries of such township, which plat and record shall be kept in the office of such clerk, and a copy thereof, under the seal of said board, shall be made by said clerk, and filed with the proper officer of said township.

SEC. 33. It shall be the general duty of the clerk of the board Duty of clerk. of commissioners: First, To record, in a book to be provided for that purpose, all proceedings of the board. Second, To make regular entries of all their resolutions and decisions in all questions concerning the raising of money. Third, To record the vote of each commissioner on any question submitted to the board, if required by any member. Fourth, Sign all orders issued by the board for the payment of money, and to record, in

a book provided for that purpose, the receipt of the county treasurer, of the receipts and disbursements of the county. Fifth, To preserve and file all accounts acted upon by the board, with their action thereon, and he shall perform such special duties as are required of him by law.

Same.

SEC. 34. It shall be the duty of such clerk to designate, upon every account which shall be audited and allowed by the board, the amount so allowed, and he shall, also, deliver to any person who may demand it, a certified copy of any record in his office, or any account on file therein, on receiving from such person ten cents for every folio contained in such copy.

Same.

SEC. 35. Such clerk shall not sign or issue any county order, unless ordered by the board of commissioners authorizing the same; and every such order shall be numbered, and the date, amount and number of the same, and the name of the person to whom it issued shall be entered in a book kept by him, in his office, for that purpose.

Same.

SEC. 36. The said clerk of each county shall, as often as a new township shall be organized in his county, or the boundaries of any townships therein shall be altered, and immediately thereafter, make out and transmit to the Secretary of the Territory (State) a certified statement of the names and boundaries so organized, and of the boundaries of any township, the boundaries of which shall have been altered.

Compensation.

SEC. 37. Such clerk shall receive a reasonable compensation for such services as he may perform as clerk of the board, where no specified fees are allowed therefor, the same to be allowed by the board and paid by the county.

Present officers
continue how
long.

SEC. 38. All persons now performing the duties of county supervisors shall continue in office until the board of commissioners are elected and qualified as hereinbefore provided.

PROBATE JUDGE.

Judge shall file
bond.

SEC. 39. There shall be elected, in each county, a probate judge, who shall hold his office for two years, and who shall before he enters upon the duties of his office, execute to the Territory of Kansas a bond, in the penal sum of three thousand dollars, with two or more sufficient securities, to be approved by the county treasurer and filed in his office, conditioned for the faithful performance of the duties required of him by law, and for the faithful application and payment of all moneys and effects that may come into his hands in execution of the duties of his office.

SEC. 40. The probate judge shall keep a record of all probate business done by or before him, which record shall be open to the inspection of all persons, without charge; and he shall receive such fees as are by law allowed him for probate business, and such other compensation as the board of county commissioners may determine; *Provided*, That nothing shall be paid by the county, if the fees and official compensation of such judge shall amount to five hundred dollars. Keep a record.
PROVISO.

SEC. 41. If a vacancy in the office of probate judge should occur, by death, resignation or otherwise, the county board of commissioners shall appoint some suitable person to fill such vacancy, until a successor shall be elected according to law. Vacancy.

COUNTY CLERK.

SEC. 42. A county clerk shall be elected in each county of this Territory, for the term of two years, and he shall, before he enters upon the duties of his office, execute and file with the treasurer of the county, a bond, with two or more sufficient sureties, in the penal sum of not less than two thousand dollars, to be fixed and approved by the treasurer, with conditions, in substance as follows, to wit: "Whereas, The above bounden _____ was elected to the office of county clerk of the county of _____, on the _____ day of _____; now, therefore, if the said _____ shall faithfully perform all the duties of his office, and shall pay over all moneys that may come into his hands, as such clerk, as required by law, and shall deliver to his successor in office, all the books, records, papers and other things belonging to his said office, then the above obligation to be null and void; otherwise, to remain in full force." Clerk elected.
File bond.

SEC. 43. The county clerk shall be, in and for his county, clerk of the board of county commissioners, and *ex officio* county auditor. Act as clerk of
board and auditor

SEC. 44. Every such clerk shall appoint a deputy, in writing, under his hand, and shall file such appointment in his office, and such deputy, in case of the absence or disability of such clerk, or in case of a vacancy in his office, shall perform all the duties of such clerk, during such absence or until such vacancy shall be filled. Every such clerk may appoint other deputies, and his sureties shall be responsible, under his official bond, for the acts of all such deputies. Deputies.

SEC. 45. If a vacancy in the office of county clerk should occur, by death resignation or otherwise, the board of county Vacancy.

commissioners shall appoint some suitable person to fill such vacancy, until a successor shall be elected according to law.

Office where kept
and duties.

SEC. 46. The county clerk shall keep his office at the county seat, shall attend the sessions of the board of county commissioners, either in person or by deputy; keep the seals, records and papers of the said board of commissioners, and keep a record of the proceedings of said board, in a book, as required by law, under the direction of the said board of commissioners.

REGISTER OF DEEDS.

Register elected.

SEC. 47. A register of deeds shall be elected in each county, for the term of two years, and who shall, before he enters upon the duties of his office, execute to the Territory of Kansas, and file with the treasurer of his county, a bond in the penal sum of two thousand dollars, with two or more sufficient securities, to be approved by said treasurer, with a condition that he will faithfully, correctly and impartially perform all the duties of his said office, and shall deliver to his successor in office all books, records, maps, deeds, mortgages, papers and things belonging to his office, then the said obligation to be void; otherwise to be and remain in full force and effect.

File bond.

Deputy.

SEC. 48. The register of deeds shall appoint a deputy, who shall hold his office during the pleasure of the register. Such appointment shall be in writing, filed and recorded in the office of such register, and the register so appointing him and his sureties shall be responsible for the faithful performance of his duties by such deputy.

Vacancy.

SEC. 49. In case of a vacancy in the office of register of deeds, or in his absence or inability to perform the duties of his office, such deputy shall perform the duties of said register, during the continuance of such vacancy, absence or inability.

Duties.

SEC. 50. The register of deeds shall have custody of and safely keep and preserve all the books, records, deeds, maps and papers deposited or kept in his office; he shall, also, record, or cause to be recorded, in a plain and distinct hand writing, in suitable books, to be provided and kept in his office, all deeds, mortgages, maps, instruments and writings, authorized by law to be recorded in his office and left with him for that purpose, and shall perform all other duties required of him by law.

To keep indexes.

SEC. 51. Every register shall keep a general index, direct and inverted, in his office. The general index, direct, shall be divided into seven columns, with heads to the respective columns, as follows, to wit:

Time of Reception.	Names of Grantors.	Names of Grantees.	Nature of Instrument	Vol and Page wh. recorded.	Remarks.	Description of Tract.
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Form of index to be kept, &c.

He shall make correct entries in such general index, of every instrument recorded, concerning or affecting real estate, under the appropriate headings, entering the names of the grantors in an alphabetical form. The general index, inverted, shall be divided into seven columns, as follows, to wit:

Time of Reception.	Names of Grantees.	Names of Grantors.	Nature of Instrument	Vol and Page wh. recorded	Remarks.	Description of Tract
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He shall make, in such general index, correct entries of every instrument required by law to be entered in the general index, direct, entering the names of the grantees in alphabetical order; and, whenever any mortgage, bond or other instrument has been released or discharged from record, whether by written release upon the margin of the record, or by recording a deed or release, the register shall immediately note, in both general indexes, under the column headed "Remarks," and opposite to the appropriate entry, that such instrument has been satisfied.

SEC. 52. He shall, also, keep a receiving book, each page of which shall be divided into five columns, as follows, to wit:

Form of receiving book.

Time of Reception	Name of Grantor.	Name of Grantee.	To whom delivered.	Fees received.
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Whenever any instrument has been received by him, for record, he shall immediately indorse upon such instrument his certificate, noting the day, hour and minute of its reception, the volume and page where recorded and the fees received for recording the same; and the date of record of such instrument shall be from the date of filing. Whenever any instrument has been filed, as aforesaid, the register shall immediately make an entry of the same in his receiving book, under the appropriate heading, with the amount paid as fee for recording the same; and, after such instrument has been recorded, he shall deliver it to the person authorized to receive the same, writing the name of the person to whom it is delivered in the appropriate column.

SEC. 53. He shall, also, keep a large, well bound book, in which shall be platted all maps of towns, villages or additions to the same within his county, together with the description, acknowledgment or other writing thereon. He shall keep an index

Book of plats to be kept.

to such book of plats, which index shall contain the name or names of the proprietor or proprietors of such town or village or addition, and the name of the town, village or addition. No register of deeds shall be bound to perform any of the duties required to be performed by this act, for which a fee is allowed, unless such fee has been paid or tendered.

Index to records.

SEC. 54. He shall, also, keep an index of each volume of records kept in his office, showing on one page the names of the grantors in alphabetical order, and on the other page the names of the grantees in alphabetical order.

Copies of papers evidence.

SEC. 55. Copies of all papers, filed in the office of the register of deeds, and transcripts from the books of records kept therein, certified by him, under the seal of his office, shall be *prima facie* evidence in all cases.

COUNTY ATTORNEY.

Attorney elected.

SEC. 56. A county attorney shall be elected in each county organized for judicial purposes, who shall hold his office for the term of two years, who shall, before he enters upon the duties of his office, execute a bond to the county clerk of his county in the penal sum of one thousand dollars, with two or more sufficient securities, to be approved by the clerk of said board, which bond shall be conditioned for the faithful performance of his duties as such officer, and that he will pay over to the county treasurer, in the manner prescribed by law, all moneys which shall come into his hands by virtue of his office, and he shall deposit such bond in the office of the county clerk.

File bond.

Duties.

SEC. 57. It shall be the duty of the county attorney to appear in the several courts of their respective counties, and prosecute or defend, on behalf of the people, all suits, applications or motions, civil or criminal, arising under the laws of this Territory, in which the Territory or their respective county is a party or interested.

Same.

SEC. 58. Each county attorney shall, when requested by any magistrate of his county, appear on behalf of the Territory, before any magistrate, other than those exercising the police jurisdiction of incorporated cities and villages, and prosecute all complaints made in behalf of the Territory, except for common assault and battery, of which such magistrate shall have exclusive jurisdiction; and, upon the like request, shall appear before such magistrate, and conduct any criminal examination which may be had before such magistrate, and shall, also, prosecute and defend all civil suits before such magistrate, in which the county is a party or interested.

SEC. 59. The county attorney shall, without fee or reward, ^{Same.} give opinions and advice to the board of county commissioners, and other civil officers of their respective counties, when requested by such board or officers, upon all matters in which the county is interested, or relating to the duties of such board or officers, in which the Territory or county may have an interest.

SEC. 60. The county attorneys shall severally receive such ^{Compensation.} compensation for their services as the board of commissioners of the proper county shall allow.

SEC. 61. No county attorney shall receive any fee or reward, ^{Shall not receive other than lawful fees} from or on behalf of any prosecutor or other individuals, except such as are allowed by law for services in any prosecution, or business to which it shall be his official duty to attend, nor be concerned as attorney or counsel for either party, other than the Territory or county, in any civil action depending upon the same state of facts, upon which any criminal prosecution, commenced but undetermined, shall depend; nor shall any county attorney, ^{Not eligible to judicial office.} while in office, be eligible to or hold any judicial office whatsoever.

SEC. 62. The county attorney may appoint a deputy, who shall ^{Deputy.} perform all the duties of such county attorney during his absence or sickness.

SEC. 63. In the absence, sickness or disability of the county attorney and his deputy, any court before whom it is his duty to appear, and in which there may be business for him, may appoint an attorney to act as county attorney, by order, to be entered upon the minutes of the court. ^{When absent or sick.}

SEC. 64. It shall be the duty of the county attorney, whenever ^{Give receipt for money.} he shall receive any money in his official capacity, to give to the person paying the same a duplicate receipt, one of which shall be filed, by such person, with the county treasurer.

SEC. 65. Whenever required by the grand jury of any court sitting within his county, it shall be the duty of the county attorney to attend them, for the purpose of examining witnesses in their presence, or of giving them advice in any legal matter, and to issue subpoenas and other processes to bring up witnesses, and to draw up bills of indictment. ^{Attend grand jury when required.}

SEC. 66. It shall be the duty of each county attorney, upon ^{Prosecute violation of laws.} information being given him that any person has violated any of the provisions of the election laws, or license laws, to adopt effectual measures for the conviction of such person.

SEC. 67. The several county attorneys are hereby authorized ^{Issue subpoenas.} to issue subpoenas, to be attested by the clerk of the court, to

compel the attendance of witnessess before a grand jury of said county, or in any criminal action to be tried in said court.

SHERIFF.

Sheriff elected.

File bond.

SEC. 68. A sheriff shall be elected, in each county organized for judicial purposes, for the term of two years, and who shall, before he enters upon the duties of his office, execute to this Territory a bond, with at least three sufficient securities, in such penal sum, not less than three thousand dollars nor more than twenty thousand dollars, as the judge of the probate court and county clerk shall specify and approve; said bond, when thus approved, to be filed in the office of said clerk; and no person shall be received as a surety who is not worth at least two thousand dollars over and above his just debts.

Condition of bond

SEC. 69. The condition of such bond shall be in substance as follows: "Whereas, The above bounden ——— was elected to the office of sheriff of the county of ———, on the ——— day of ———; now the condition of this obligation is such, that if the said ——— shall well and faithfully perform and execute the duties of the office of sheriff of the said county of ———, during his continuance in office, by virtue of said election, without fraud, deceit or oppression, and shall pay over all moneys that may come into his hands as such sheriff, and shall deliver to his successor all writs, papers and other things pertaining to his office, which may be so required by law, then the above obligation shall be void; otherwise, to be and remain in full force and effect."

Undersheriff.

SEC. 70. The sheriff of each county shall, as soon as may be, after entering upon the duties of his office, appoint some proper person under-sheriff of said county, who shall, also, be a general deputy, to hold during the pleasure of the sheriff; and, as often as a vacancy shall occur in the office of such under-sheriff, or he become incapable of executing the same, another shall, in like manner, be appointed in his place.

Vacancy.

SEC. 71. Whenever a vacancy occurs in the office of sheriff of any county, the under-sheriff of such county shall, in all things, execute the office of sheriff, until a sheriff shall be elected and qualified; and any default or misfeasance in office of such under-sheriff, in the mean time, as well as before such vacancy, shall be deemed to be a breach of the condition of the bond given by the sheriff who appointed him; and, also, a breach of the condition of the bond, executed by such under-sheriff to the sheriff by whom he was appointed.

Deputies.

SEC. 72. Each sheriff may appoint such and so many deputies

as he may think proper, for whose official acts and those of his under-sheriffs he shall be responsible, and may revoke such appointment[s] at his pleasure ; and persons may, also, be deputed, by such sheriff or under-sheriff, in writing, to do particular acts ; and the sheriff and his sureties shall be responsible in [on] his official bond for the default or misconduct of his under-sheriff and deputies.

SEC. 73. Every appointment of an under-sheriff or of a deputy sheriff, and every revocation of such appointment shall be in writing, under the hand of the sheriff, and shall be filed in the office of the clerk of the county, but this section shall not extend to any person who may be deputized by any sheriff or under-sheriff to a particular act only. Appointments filed.

SEC. 74. The sheriff shall have charge and custody of the jails of his county, and of the prisoners in the same, and shall keep them himself, or by his deputy or jailor, for whose acts he and his sureties shall be liable. Have custody of jails.

SEC. 75. The sheriff, in person or by his under-sheriff or deputy, shall serve and execute, according to law, all processes, writs, precepts and orders, issued or made by lawful authority and to him directed, and shall attend upon the several courts of record held in his county. Duties.

SEC. 76. It shall be the duty of the sheriff and under-sheriffs and deputies to keep and preserve the peace in their respective counties, and to quiet and suppress all affrays, riots and unlawful assemblies and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they and every coroner and constable may call to their aid such person or persons of [their county as] they may deem necessary. Same.

SEC. 77. Whenever a new sheriff shall be elected, and shall have been qualified as required by law, the former sheriff shall, upon demand, deliver to him the jail and other property of the county, and all prisoners in such jail, and all writs, processes, orders and other papers belonging to such office and in his possession or that of his under-sheriff or deputies, except as provided in the next succeeding section, and, upon delivery thereof, such new sheriff shall execute to the former sheriff a receipt therefor. Deliver to successor all under his charge.

SEC. 78. Sheriffs, under-sheriffs and deputies may execute and return all such writs and processes as shall be in their hands at the expiration of their office, or at the time of their removal from office, which they shall have begun to execute by service, levy or the collection of money thereon. To complete business commenced.

Misconduct of
deputy after
death of sheriff.

SEC. 79. Any default or misconduct in the office of deputy sheriff or jailor, after the death, resignation or removal of any sheriff, by whom he was appointed, shall be adjudged a breach of the bond of such sheriff.

In such cases ac-
tion how prosecu-
ted.

SEC. 80. Any action for default or misconduct of any sheriff, his under-sheriff, jailor or any of his deputies, may be prosecuted against the executors or administrators of such sheriff.

Papers served on
sheriff.

SEC. 81. Every paper required by law to be served on the sheriff may be served on him in person, or left at his office during business hours.

No sheriff shall
act as attorney.

SEC. 82. No sheriff, under-sheriff or deputy shall appear or advise, as attorney or counselor, in any case in any court.

Neglect to make
return.

SEC. 83. Whenever any sheriff shall neglect to make due return of any writ or process delivered to him to be executed, or shall be guilty of any default or misconduct in relation thereto, he shall be liable to fine or attachment or both, at the discretion of the court, subject to appeal; such fine, however, not to exceed two hundred dollars, and, also, an action for damages to the party aggrieved.

Shall not receive
greater fees than
law allows.

SEC. 84. No sheriff shall, directly or indirectly, ask, demand or receive, for any service to be by him performed in the discharge of any of his official duties, any greater fees than are allowed by law, on pain of forfeiting treble damages to the party aggrieved, and on being fined in a sum not less than twenty-five dollars, and not more than two hundred dollars.

CORONER.

Coroner elected.

SEC. 85. A coroner shall be elected in each county, for the term of two years, who shall, before he enters upon the duties of his office, give bonds to this Territory, in such penal sum, not less than five hundred and not more than five thousand dollars, with sufficient sureties, not less than two, as the county treasurer shall direct and approve, the condition of which bond shall be in substance the same as that given by the sheriff, such bond to be filed with the clerk of the proper county.

Give bond

Coroner to act as
sheriff when.

SEC. 86. When there shall be no sheriff in the county organized for judicial purposes, it shall be the duty of the coroner to exercise all the powers and duties of the sheriff of his county, until a sheriff be elected and qualified; and when the sheriff, for any cause, shall be committed to the jail of his county, the coroner shall be keeper thereof, during the time the sheriff shall remain a prisoner therein.

Same

SEC. 87. Every coroner shall serve and execute process of

every kind, and perform all other duties of the sheriff, when the sheriff shall be a party to the case, or whenever affidavit shall be made and filed as provided in the succeeding section; and in all such cases he shall exercise the powers and proceed in the same manner as prescribed for the sheriff in the performance of similar duties.

SEC. 88. Whenever any party, his agent or attorney, shall ^{Same.} make and file with the clerk of the proper court, an affidavit stating that he believes that the sheriff of such county will not, by reason of either partiality, prejudice, consanguinity or interest, faithfully perform his duties in any suit commenced or about to be commenced in said court, the clerk shall direct the original or other process in such [suit] to the coroner, who shall execute the same in like manner as the sheriff might or ought to have done.

SEC. 89. The coroner shall hold an inquest upon the dead ^{Duties.} bodies of such persons only as are supposed to have died by unlawful means, or the cause of whose death is unknown. When he has notice of the dead body of a person, supposed to have died by unlawful means, the cause of whose death is unknown, found or being in the county, it shall be his duty to summons forthwith six citizens of the county, to appear before him at a time and place named.

SEC. 90. If any juror fails to appear, the coroner shall sum- ^{Jury and oath.} mons the proper number from bystanders, immediately, and proceed to impanel them and administer the following oath, in substance: Oath—"You do solemnly swear (or affirm) that you will diligently inquire and true presentment make, when, how and by what means the person whose body lies here dead came to his death, according to your knowledge and the evidence given you—So help you God."

SEC. 91. The coroner may issue subpoenas, within his county, ^{Witnesses.} for witnesses, returnable forthwith, or at such time and place as he shall therein direct; and witnesses shall be allowed the same fees as in cases before a justice of the peace, and the coroner shall have the same authority to enforce the attendance of witnesses, and to punish them and jurors for contempt in disobeying his process, as a justice of the peace has when his process issues in behalf of the Territory.

WITNESSES' OATH.

SEC. 92. An oath shall be administered to the witnesses in ^{Oath.} substance as follows: "You do solemnly swear that the testimony which you shall give to this inquest, concerning the death of the

person here lying dead shall be the truth, the whole truth and nothing but the truth—So help you God.”

TESTIMONY.

Testimony.

SEC. 93. The testimony shall be reduced to writing, under the coroner's order and subscribed by the witnesses.

VERDICT.

Form of verdict.

SEC. 94. The jurors, having inspected the body, heard the testimony and made all needful inquiries, shall return to the coroner their inquisition in writing, under their hands, in substance as follows, and stating the matter in the following form suggested, as far as found: “Territory of Kansas, ——— county. An inquisition holden at ———, in ——— county, on the ——— day of ——— A. D. 18—, before me, ———, coroner of said county, upon the body of ———, or a person unknown, there lying dead, by the jurors whose names are hereto subscribed, the said jurors, upon their oaths do say, (here state when, how, by what person, means, weapon or accident he or she came to his or her death, and whether feloniously.) In testimony whereof, the said jurors have hereunto set their hands, the day and year aforesaid”—which shall be attested by the coroner.

SAME SECRET.

To be kept secret.

SEC. 95. If the inquisition find a crime has been committed on the deceased, and name the person whom the jury believes has committed it, the inquest shall not be made public until [after] the arrest directed in the next section.

Person charged
how arrested.

SEC. 96. If the person charged be present, the coroner may order his arrest by an officer or any other person, and shall then make a warrant requiring the officer or other person to take him before a justice of the peace.

WARRANT.

Warrant for arrest.

SEC. 97. If the person charged be not present, and the coroner believe he can be taken, the coroner may issue a warrant to the sheriff or any constable of the county, requiring them to arrest the person and take him before a justice of the peace.

SAME.

Authority of
same.

SEC. 98. The warrant of a coroner in the above cases shall be of equal authority with that of a justice of the peace; and, when the person charged is brought before the justice, he shall be dealt with as a person held under a complaint in the usual form.

SAME STAND AS COMPLAINT.

SEC. 99. The warrant of the coroner shall recite substantially the transactions before him, and the verdict of the jury of inquest leading to the arrest; and such warrant shall be a sufficient foundation for the proceeding of the justice, instead of a complaint. Warrant stand as complaint.

RETURN.

SEC. 100. The coroner shall then return to the district court the inquisition, the written evidence, and a list of the witnesses, who testify material matter. Return evidence, &c., to court.

BURIAL EXPENSES.

SEC. 101. The coroner shall cause the body of a deceased person, which he is called to view, to be delivered to his friends, if any there be; but, if not, he shall cause him to be decently buried, and the expense to be paid from any property found with the body; or, if there be none, from the county treasury, by certifying an account of the expense, which, being presented to the board of county commissioners, shall be allowed by them, if deemed reasonable, and paid as other claims on the county. Burial expenses how paid.

JUSTICE TO ACT AS CORONER.

SEC. 102. When there is no coroner, or in case of his absence or inability to act, any justice of the peace of the same county is authorized to perform the duties of coroner in relation to dead bodies. Justice to act as coroner when.

SURGEON.

SEC. 103. In the above inquisition by a coroner, where he or a jury shall deem it requisite, he may summons one or more physicians or surgeons, to make scientific examination, and may allow, in such case, a reasonable compensation, subject to the confirmation of the board of county commissioners. May summon physician or surgeon.

TREASURER.

SEC. 104. A county treasurer shall be elected in each county, for the term of two years, and shall, before he enters upon the discharge of his duties, execute to the board of county commissioners of his county, a bond, with three or more sufficient sureties, to be approved by the board, and in such penal sum as they shall direct, which bond, with the approbation of the board indorsed thereon by their clerk, shall be filed in the office of the county clerk; and, in case the board of commissioners shall not be in session in time for any county treasurer to present his bond for their approval, as above specified, or he shall be unable, from Treasurer elected. Give bond.

any cause, to present his bond at any regular meeting of the board, after due notice of his election, then it may be lawful for such treasurer to present his bond to the chairman and clerk of the said board for their approval; and their approval indorsed thereon shall have the same effect as if done by the board of commissioners; and, in such cases, where the board shall not have fixed the penal sum of such bond, it shall not be less than twice the amount of all moneys directed by the board to be levied in the county, and to be paid to such treasurer during the year.

Condition of bond

SEC. 105. The condition of such bond shall be in substance as follows: "Whereas, The above bounden ——— was elected to the office of county treasurer of the county of ———, on the ——— day of ———; now, therefore, the condition of this obligation is such, that if the said ——— and his deputy, and all persons employed in his office, shall faithfully and promptly perform the duties of said office, and if the said ——— and his deputies shall pay, according to law, all moneys which shall come to his hands, as treasurer, and will render a just and true account thereof, whenever required by said board of commissioners or by any provision of law, and shall deliver over to his successor in office or to any other person authorized by law to receive the same, all moneys, books, papers and other things appertaining thereto or belonging to his said office, then the above obligation to be void; otherwise, to be in full force and effect."

Deputy.

SEC. 106. The county treasurer may appoint a deputy, who, in the absence of the treasurer from his office, or in case of vacancy in said office, for any disability of the treasurer to perform the duties of his office, may perform all the duties of the office of treasurer, until such vacancy be filled or such disability removed.

Vacancy.

SEC. 107. In case the office of county treasurer shall become vacant, the board of county commissioners may, if in their opinion the interests of the county require it, appoint a suitable person to perform the duties of such treasurer, and the person so appointed, upon giving bond, with the like sureties and conditions as that required in county treasurer's bonds, and in such sum as said board shall direct, shall be invested with all the duties of such treasurer, until such vacancy shall be filled or such disability removed.

Persons not eligible.

SEC. 108. No person holding the office of sheriff, judge of probate, county attorney, county clerk, deputy county treasurer, nor any member of the board of commissioners, shall hold the office of county treasurer.

SEC. 109. It shall be the duty of the county treasurer to receive all moneys belonging to the county, from whatsoever source they may be derived, and all other moneys which are by law directed to be paid to him. All money received by him for the use of the county shall be paid out by him only on the orders of the board of commissioners, according to law, except where special provision for the payment thereof is or shall be otherwise made by law. Duties.

SEC. 110. The said treasurer shall keep a just and true account of the receipts and expenditures of all moneys, which shall come into his hands by virtue of his office, in a book or books to be kept by him for that purpose, which books shall be open at all times for the inspection of the board of county commissioners or any member thereof, and to all county and Territorial officers; and, at the annual meeting, in July, of the said board of commissioners, or at such other time as they may direct, he shall settle with them his accounts as treasurer, and for that purpose he shall exhibit to them all his books and accounts and all vouchers relating to the same, to be audited and allowed. Same.

SEC. 111. County orders, properly attested, shall be entitled to a preference as to payment, according to the order of time in which they may be presented to the county treasurer; but, where two or more orders are presented at the same time, precedence shall be given to the order of the oldest date; but every county treasurer shall receive in payment of county taxes, county orders issued in said county, which may be presented in payment for such county taxes. What county orders entitled to preference.

SEC. 112. Upon the resignation or removal from office of any county treasurer, all the books and papers belonging to his office, and all moneys in his hands, by virtue of his office, shall be delivered to his successor in office, upon the oath of such preceding treasurer, or, in case of his death, upon the oath of his executors or administrators. If any such preceding county treasurer, or, in case of his death, if his executors or administrators shall neglect or refuse to deliver up such books, papers and moneys, on oath, when lawfully demanded, every such person shall forfeit a sum of not less than one hundred dollars nor more than five hundred dollars, and be, also, liable upon his official bond for such refusal or neglect. Deliver to successor or all in his charge.

SEC. 113. The county treasurer shall receive the following compensation: For collecting taxes, six per centum on the first three thousand dollars; five per centum on the amount between Compensation.

three and four thousand dollars ; four per centum on the amount between four and five thousand dollars ; three per centum on all sums over five thousand and under ten thousand, and all over ten thousand, two per centum ; two and a half per centum for receiving and paying out all moneys other than taxes and school fund ; for every mile traveled, in going and returning to make settlements with the Territorial Treasurer and Auditor, and to make deposits of Territorial revenue, ten cents ; for each tract or parcel of land sold for taxes, ten cents ; *Provided*, That in no case he shall receive more than two thousand dollars in any one year.

Proviso.

Act as collector of taxes.

SEC. 114. The county treasurer of each county shall be, by virtue of his office, collector of taxes therein, and shall perform such duties in that regard as are prescribed by law.

Assess taxes in certain cases.

SEC. 115. It shall further be the duty of said county treasurer to assess, at a fair value, the property of any person liable to pay taxes, whom the county assessor has failed to assess, and to place the same on the tax duplicate, and to collect taxes on the same, in the manner provided by law ; *Provided, however*, That said treasurer shall not be compelled to see such property in person ; and, *Provided further*, That he be authorized to administer oaths to such person or any others, touching the value of said property.

Proviso.

COUNTY SURVEYOR—TERM—BOND.

Surveyor elected.

SEC. 116. A county surveyor shall be elected, for the term of two years, who shall give bonds to the board of county commissioners, to be approved by the county clerk of the proper county, in the sum of one thousand dollars, conditioned for the faithful discharge of his duties.

MAY APPOINT DEPUTIES.

Deputies.

SEC. 117. The county surveyor may appoint as many deputies as he thinks proper, for whose official acts he shall be responsible. The certificate of the county surveyor or any of his deputies shall be admitted as legal evidence in any court of the Territory ; but the same may be explained or rebutted by other evidence.

DUTIES.

Duties.

SEC. 118. It shall be the duty of the county surveyor, by himself or one of his deputies, to execute any survey which may be required by order of any court, or upon application of any individual or corporation.

SHALL KEEP A RECORD OF SURVEYS, &C.

SEC. 119. The said surveyor shall keep a correct and fair record of all surveys made by him or his deputies, in a book to be provided for that purpose by the county, which he shall transmit to his successor in office; he shall, also, number such surveys progressively, and shall, also, preserve a copy of field notes and calculations of each survey, indorsing thereon its proper number, a copy of which, and, also, a fair and accurate plat, together with a certificate of survey, shall be furnished by said surveyor to any person requiring the same. Keep record of surveys.

SEC. 120. If the office of county surveyor be, at any time, vacant, the board of county commissioners are hereby empowered to appoint some suitable person to perform the duties of the office, until a county surveyor be elected. Vacancy.

COUNTY ASSESSOR.

SEC. 121. A county assessor shall be elected in each county, at the general November election, who shall give bond, with two or more freehold securities, in a penal sum, for the faithful performance of his duties, to the satisfaction of the board of county commissioners, and subscribe an oath or affirmation for the faithful performance of his duties as such assessor, and who shall be a qualified elector of said county, and shall hold his office for one year, and until his successor is elected and qualified. Assessor elected.

SEC. 122. Whenever the board of county commissioners shall be of the opinion that said assessor is unable to perform the duties of his office according to law, they may authorize said assessor to appoint one or more deputies, who shall be sworn and give bond similar to the principal himself. Deputies appointed when.

SEC. 123. Such assessor and deputy or deputies shall receive from said county such a sum, not exceeding two dollars and a half per day, for each day of actual service in the discharge of said duties, as the said board of county commissioners may deem right and just to allow. Compensation.

MISCELLANEOUS PROVISIONS CONCERNING COUNTY OFFICERS.

SEC. 124. Every sheriff, county clerk, register of deeds, county treasurer, county attorney or probate judge shall keep his office at the seat of justice of his county, and in the office provided by the county, if any such has been provided; and, if there be none established, then at such place as shall be fixed by special provisions of law; or, if there be no such provisions, then at such place as the board of county commissioners shall direct, and they shall each keep the same open during the usual business hours of Offices at county seat.

Forfeiture in case
of neglect.

each day, (Sundays excepted;) and all books and papers required to be in their offices shall be open for the examination of any person; and, if any person of said officers shall neglect to comply with the provisions of this section, he shall forfeit, for each day he so neglects, the sum of five dollars.

OFFICERS SHALL BE QUALIFIED AND DEPOSIT BONDS.

Execute bond and
take oath within
twenty days.

SEC. 125. Every county officer named in this chapter shall, before entering upon the duties of his office, and within twenty days after receiving official notice of his election or appointment, or within twenty days after the commencement of the term for which he was elected, execute and deposit his official bond, as prescribed by law; and any such officers shall, also, within the same time, take and subscribe the oath of office prescribed by law, before some officer authorized to administer oaths, and deposit the same with his official bond, to be filed and preserved therewith.

DEPUTY TO TAKE OATH OF OFFICE.

Deputies to take
oath.

SEC. 126. Every deputy appointed to any of said offices shall, before entering upon his duties under such appointment, take and subscribe the like oath of office as that required to be taken by the officer appointing him, and shall deposit the same in the office where the bond of such officer is deposited.

COPIES OF ALL DOCUMENTS RECEIVED AS EVIDENCE.

Copies of docu-
ments received as
evidence.

SEC. 127. Copies of all documents, writs, proceedings, instruments, papers and writings, duly filed or deposited in the office of any judge of probate, register of deeds, county clerk or county treasurer, and transcripts from books of records or proceedings, kept by any of said officers, with the seal of his office affixed, shall be *prima facie* evidence in all cases.

Former officers,

Provisions for
elections.

SEC. 128. All officers provided for in this act, who were elected at the general election in 1859, shall hold their respective offices for the term for which they were elected. At the spring election, in March, in the year 1860, there shall be elected for each county three county commissioners and one assessor, who shall hold their office until the first day of January, A. D. 1861, and the city of Leavenworth is hereby authorized to hold an election in its various wards, on said fourth Monday in March, 1860, for the purpose of voting for county commissioners, the same to be governed by the general election law of this Territory, and in conformity to the provisions of this act, in all respects whatever.

Meaning of terms
in previous laws.

SEC. 129. That, whenever, in any law of this Territory, the

words "county supervisors," "county board of supervisors" or "tribunal transacting county business" are used, it [they] shall be construed to mean "county commissioners," and the voting for such commissioners and assessors shall be at the usual place of holding general elections.

SEC. 130. All county officers who hold their office by election shall make their resignation to the officer or officers authorized by law to fill such vacancies in such office respectively. Resignations how made.

SEC. 131. Every county office shall become vacant on the happening of either of the following events, before the expiration of the term of such office: First, The death of the incumbent. Second, His resignation. Third, His removal. Fourth, His ceasing to be an inhabitant of the county for which he was elected or appointed. Fifth, His conviction of any infamous crime or any offense involving a violation of his official oath. Sixth, His refusal or neglect to take his oath of office, or to give or renew his official bond, or to deposit such oath and bond within the time prescribed by law. Seventh, The decision of a competent tribunal declaring void his election or appointment. Eighth, The governor shall, also, declare vacant the office of every officer required by law to execute an official bond, whenever a judgment shall be obtained against such officer for a breach of the condition of such bond. Offices vacant when.

SEC. 32. That the act entitled "An Act relating to Counties and County Officers," approved February 8, 1859, and all other acts or parts of acts, except an act entitled "An Act establishing a Code of Civil Procedure," approved February the 11th, 1859, and "An Act establishing a Code of Criminal Procedure," approved February 19, 1859, upon this subject, be and the same are hereby repealed. Acts repealed.

SEC. 13. This act to take effect and be in force from and after the first day of March next, except the eleventh section of this act, which shall take effect and be in force from and after its passage. Section excepted

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 25, 1860.

S. MEARY,

Governor.

CHAPTER XXIX.

AN ACT to Change the Boundaries of Butler County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Southern boundary.

SECTION 1. That the fifth standard parallel line shall be and is hereby declared the south boundary line of Butler county.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representative.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER XXX.

AN ACT to Organize the County of Cherokee.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

McGee county changed to Cherokee.

SECTION 1. That the name of the county of Maie [McGee] be and the same is hereby changed to that of Cherokee.

Detached from Bourbon, and temporary county seat.

SEC. 2. That the said county of Cherokee, heretofore attached to Bourbon county is hereby detached therefrom, and the town of Freepoint shall be the temporary county seat thereof.

Commissioners and their duties.

SEC. 3. That John Sears, John Lemon and B. L. Blanton are hereby appointed commissioners to divide said county into townships, not exceeding three in number, each of which townships shall be an election precinct; and it shall be the duty of said commissioners to appoint, for each, three inspectors and two clerks of election, and, also, a place for holding a special elec-

tion, as hereinafter provided, and to make all needful regulations for holding said elections.

SEC. 4. That a special election shall be held, for county and township officers, on the fourth Monday of March, eighteen hundred and sixty, which shall be governed by the general election law; and the persons thus elected shall respectively hold their offices until the next general election for county officers, and until their successors are chosen and qualified.

Special election for officers.

Persons elected hold office how long.

SEC. 5. At the close of said election, a return of all the votes cast shall be made to the chairman of the board of commissioners above named, by the clerk; and it shall be the duty of the commissioners to grant certificates to the persons elected, and to file one copy of the returns with the clerk of the county, and to transmit another copy to the Secretary of the Territory.

Returns how made.

Commissioners grant certificates, and file copy of returns.

SEC. 6. It shall be the duty of the county clerk chosen at said election to procure, from the office of the register of deeds of Bourbon county, a transcript of all deeds, mortgages, judgments and liens of every description upon real or personal property lying in said county of Cherokee, and record the same in his office; and, in addition to the regular fees for such services, the said clerk shall receive ten dollars for traveling expenses, all to be paid by said county of Cherokee.

County clerk to procure transcript of papers relating to Cherokee and record the same.

Fees.

SEC. 7. All provisions of law conflicting with this act are hereby repealed.

Acts repealed.

SEC. 8. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 18, 1860.

S. MEDARY,

Governor.

CHAPTER XXXI.

AN ACT Defining the West Boundary of Cherokee County and the East and West Boundaries of Neosho County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Western boundary of Cherokee.

SECTION 1. The western boundary of Cherokee county shall be township line between range twenty-one and twenty-two east.

Eastern boundary of Neosho.

SEC. 2. The eastern boundary of Neosho county shall be township line between range twenty-one and twenty-two east, and the western boundary shall be township line between range seventeen and eighteen east.

Acts repealed.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act to take effect from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER XXXII.

AN ACT Changing the Lines of Chase and Butler County [Counties.]

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Eastern boundary

SECTION 1. That the range line between range nine and ten shall be the east line of Chase and Butler counties.

SEC. 2. This act to be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

This bill, having remained with the Governor three days, (Sundays excepted,) and the Legislative Assembly being in session, it has become a law this twenty-seventh day of February, one thousand eight hundred and sixty.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

CHAPTER XXXIII.

AN ACT to Organize Clay County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the county of Clay, heretofore attached to the county of Riley, for municipal and judicial purposes, is hereby detached therefrom, and hereafter the said county of Clay shall enjoy all the rights and privileges of a separate county organization. Detached from Riley.

SEC. 2. That A. Whiting, Francis House and J. U. Parsons, Jr., be and they are hereby appointed commissioners, to conduct the first election for county officers for said county of Clay, as hereinafter provided. Commissioners.

SEC. 3. That said commissioners, before entering upon the duties prescribed in this act, shall take and subscribe to an oath, faithfully and impartially to perform the duties herein prescribed. Take oath.

SEC. 4. That, after taking the oath as above, they shall proceed to divide the county into suitable and convenient precincts, and they shall give at least thirty days' notice of the time and places for holding the first election of county officers for said county, by posting up, in at least three of the most public places in each precinct, notices of said election. Duties.

SEC. 5. That the voters at said election assembled at nine o'clock, A. M., in each election precinct, shall elect their judges and clerks, and the election shall be governed by the general election laws of the Territory, except that the registry law shall not apply to the first election, and that commissioners hereby appointed shall be the board of canvassers of said election. First election how conducted.

First tribunal to
locate county
seat.

SEC. 6. That the first county tribunal transacting county business shall, within thirty days after entering upon the duties of their office, proceed to locate the county seat of said county within three miles of the geographical center thereof.

Election when
held.

Compensation of
commissioners.

May fill vacan-
cies.

Acts repealed.

SEC. 7. The election provided for in this act shall take place on or before the first Monday in June, 1860, and the commissioners herein provided for shall be allowed such compensation for their services as shall be deemed reasonable by the tribunal transacting county business; and said commissioners or either of them shall have power to fill all vacancies which may occur in their number, either by failure of a portion of them to act, by death or otherwise.

SEC. 8. All provisions of law conflicting with this act are hereby repealed.

SEC. 9. This act shall take effect and be in force from and after the tenth day of April, 1860.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 21, 1860.

S. MEDARY,

Governor.

CHAPTER XXXIV.

AN ACT Establishing the Boundaries of Davis County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Boundaries.

SECTION 1. That the boundaries of Davis county be and they are hereby established as follows : Commencing at a point two miles west of the guide meridian on the Kansas ; thence following up said river, in the main channel thereof, to the middle of township eleven, south ; thence west, on the section line, to the Republican river ; thence up said river, in the main channel thereof, to the second standard parallel ; thence west, along said parallel, to the range line between ranges three and four ; thence

south to the township line between thirteen and fourteen; thence east to the section line two miles west of the guide meridian; thence north to the place of beginning; *Provided*, That so much Proviso. of the foregoing section as provides for changing the western boundary of said Davis county, shall not take effect until the legal voters, whether registered or otherwise, residing upon the territory now in Dickinson county, and proposed by this act to be added to Davis county, shall have declared their consent thereto, by a majority vote at an election to be held for that purpose, Election. on the fourth Monday of April next, under the supervision of the county commissioners of Davis county, and in accordance with the general law regulating elections; said election to be held at Where held. some convenient place or places, to be designated by said county commissioners; said commissioners to cause due notice to be Notice given. given, within the said territory, of the said election, at least ten days before the said first Monday of April next; and the said commissioners shall, also, appoint the necessary judges and clerks Commissioners appoint judges and clerks. to superintend said election, who shall canvass the votes, and make return to said county commissioners—those in favor of said proposed change voting “For the change,” and those opposed voting “Against the change;” and, if the said commissioners shall find that a majority of all the votes cast are in favor of the change, then the provision herein contained, establishing the said western boundary of Davis county upon the range line between ranges three and four, shall be in full force and effect, and said commissioners shall make suitable proclamation of the result, and cause a certified copy thereof to be filed in the office of the county clerk of said Davis county, and a duplicate copy thereof to be filed in the office of the Secretary of the Territory, within twenty days after said election; but, if there shall not be If not favorable. a majority of the votes cast at said election in favor of said proposed change, then the western boundary of Davis county shall be on the range line between ranges four and five.

SEC. 2. That there shall be an election in Davis county, on the fourth Monday of June next, for the purpose of locating permanently the seat of justice of said county; said election to be conducted under the provisions of the general law regulating elections, each voter specifying upon his ballot the name of the place he desires shall become the seat of justice of said county; and the judges and clerks of the election in the several precincts shall make return of the votes cast, within ten days after said election, to the board of county commissioners, who shall canvass Election for county seat.

the same and make proclamation of the result, according to law ; and, if any one place shall receive a majority of all the votes cast, the said commissioners shall declare said place to be the county seat of said county ; but, if no place shall receive a majority of all the votes cast, a second election shall be held, on the fourth Monday of August following, conducted in every manner as the first election hereinbefore provided for, except that no place shall be voted for except the two receiving the highest number of votes at the first election ; and the place having a majority of all the votes given shall be declared the permanent seat of justice of said Davis county.

Recorder to transcribe records relating to Davis.

SEC. 3. The recorder of deeds of Davis county is hereby authorized to transcribe, from the records of Riley county, all deeds, mortgages and other instruments of writing, affecting the title to any real estate hereby detached from said Riley county and added to said county of Davis ; said records to be made in a suitable book, to be kept in the office of the recorder of Davis county ; said records to be of the same legal force and effect as if originally made in the recorder's office of Davis county ; said recorder to be allowed the usual fees for transcribing said records, as provided by law, to be paid by said Davis county.

Legality of such records.

Compensation.

Acts repealed.

SEC. 4. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 24, 1860.

S. MEDARY,
Governor.

CHAPTER XXXV.

AN ACT Organizing the County of Dickinson.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That the county of Dickinson is hereby detached from the county of Davis, and an election authorized in said county of Dickinson for county officers, to be held on the day of the annual election in November next.

Detached from Davis, and election ordered.

SEC. 2. The board transacting county business within and for the county of Davis are hereby authorized to establish voting precincts and to temporarily locate the county seat of said county of Dickinson.

Board of Davis county establish precincts and locate county seat.

SEC. 3. That the said election shall be held under the provisions of the general laws governing the same, except that no registry of voters shall be necessary; and judges and clerks of said election shall be chosen by the voters assembled at the several precincts to be established agreeably to the provisions of this act, at the time of opening the polls.

Election how conducted.

SEC. 4. That this act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.
S. MEDARY,
Governor.

CHAPTER XXXVI.

AN ACT for the relief of Douglas County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That the treasurers of the several townships in Douglas county are hereby required to pay over to the county

Township treasurers to pay over certain moneys at stated times.

treasurer of said county, on the twenty-ninth day of February, first Monday of April and first Monday of May, eighteen hundred and sixty, all moneys collected by them for sinking fund for the payment of bonds and interest thereon.

SEC. 2. This act shall be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER XXXVII.

AN ACT to Provide for the Organization of Greenwood County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Detached from Coffey, and temporary county seat.

SECTION 1. That the county of Greenwood, heretofore attached to Coffey county, is hereby detached therefrom, and the town of Eureka shall be the temporary county seat of said county.

Commissioners and their duties.

SEC. 2. That James Ashmore, A. Clark [and] H. B. Slough are hereby appointed commissioners to divide said county into townships, not exceeding three in number, each of which townships shall be an election precinct; and it shall be the duty of said commissioners to appoint for each three inspectors and two clerks of election, and, also, a place for holding a special election as hereinafter provided for, and to make all needful regulations for holding said election.

Special election for officers.

SEC. 3. That a special election shall be held for county and township officers, on the fourth Monday of April, eighteen hundred and sixty, which shall be governed by the rules and regulations of the general election laws; and the persons thus elected shall respectively hold their offices until the next general election for county officers, and until their successors are chosen and qualified.

Persons elected hold office how long

Officers of election to take oath.

SEC. 4. Said commissioners, inspectors and clerks, before

entering upon the duties of their respective offices, shall take the oath prescribed by law, which may be administered by one of their number.

SEC. 5. At the close of said election, a return of all the votes cast shall be made, by the inspectors and clerks, to the chairman of the commissioners above named; and it shall be the duty of said commissioners to issue certificates to the persons elected, and to file one copy of the returns in the office of the clerk of the county, and to transmit another copy to the Secretary of the Territory.

Returns how made.

Commissioners to issue certificates and file copies of returns.

SEC. 6. It shall be the duty of the county clerk chosen at such election to procure, from the office of the register of deeds of Coffey county, a transcript of all deeds, mortgages, judgments and liens of every description upon real and personal property lying in said county of Greenwood, and record the same in his office; and, in addition to the legal fees for recording, said clerk shall receive, out of the treasury of said Greenwood county, ten dollars for traveling expenses and services.

County clerk to procure transcripts of papers relating to Greenwood and record the same.

Fees.

SEC. 7. All provisions of law conflicting with this act are hereby repealed.

Acts repealed.

SEC. 8. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER XXXVIII.

AN ACT Creating and Organizing the County of Irving.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That a county, to be called the county of Irving, be hereby erected out of that portion of Hunter county included

Name and boundaries.

within the following described limits, to wit: Commencing at a point where the guide meridian crosses the fifth standard parallel, between ranges eight (8) and nine (9;) thence due west thirty-six (36) miles; thence due south twenty-four (24) miles; thence east to a point due south of the first named point; thence north to the place of beginning; and the same shall be hereafter known as the county of Irving.

Election for officers.

Hold office how long.

Supervisors act as judges and appoint clerks of election.

Temporary county seat

Acts repealed.

SEC. 2. An election shall be held in the various precincts, as now established in said county of Irving, on the second Tuesday in May, one thousand eight hundred and sixty, (1860,) for the election of county and township officers, who shall hold their offices respectively until the next general election for county officers, and till their successors are qualified.

SEC. 3. That it shall be the duty of the supervisors of each township in said county of Irving to appoint two clerks and provide suitable places for holding said special election, and act as judges of the same, in conformity with the election law of this Territory.

SEC. 4. That the town of Eldorado shall be the temporary county seat of the said county of Irving.

SEC. 5. That all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER XXXIX.

AN ACT to Protect the Citizens of Linn County from Depredations of Stock.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Stock liable for damages by trespass.

SECTION 1. That stock of any kind that may trespass at night, from first of September until the thirty-first of December of each

year, on the premises or inclosure of any person owning or having possession of any fields or inclosures to the damage of the person or persons having possession of said premises, shall be liable for all damages that may be sustained by reason of said trespass.

SEC. 2. The person or persons who may have been damaged by reason of said trespass, described in section one of this act, may take up such stock as may be found trespassing on his premises, while on said premises. The stock so taken up shall remain or be kept in possession of the person taking it up, until the damage sustained in consequence of said trespass, together with a reasonable compensation for taking up and keeping said stock, shall be paid.

Persons injured may take up stock when.

Keep said stock until damages are paid.

SEC. 3. The damages described in this act may be sued for and collected before any justice of the peace having jurisdiction over the same; or, if said damages exceed one hundred dollars, be recovered in an action in the circuit court of the county.

Damages may be collected how.

SEC. 4. If the stock trespassing be not removed according to the provisions of this act, in ten days after taking up the same, then said stock shall be proceeded with according to the law for taking up and posting estrays. The taker up shall proceed to advertise said stock within the first five days after the expiration of the ten days spoken of in this section.

After certain time may proceed according to estray law.

Date of notice.

SEC. 5. This act to apply only to the county of Linn.

Apply only to Linn county.

SEC. 6. This act to be in force and take effect from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER XL.

AN ACT Establishing the Counties of Marion and Otoe.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Boundaries of
Marion.

SECTION 1. That all that territory comprised within the following limits do constitute the county of Marion, to wit: Commencing at the south-east corner of township twenty-one, (21,) range five, (5;) thence north to the north-east corner of township eighteen, (18,) range five, (5;) thence west to the north-east corner of township eighteen, (18,) range four, (4;) thence north to the south-east corner of Dickinson county; thence west to the sixth principal meridian; thence south to the south-west corner of township twenty-one, (21,) range one, (1;) thence east to the place of beginning.

Boundaries of
Otoe.

SEC. 2. That all that territory comprised within the following limits shall constitute the county of Otoe, to wit: Commencing at the north-west corner of Butler county; thence west to the sixth principal meridian; thence south to a point four miles south of the fifth standard parallel, on the north line of the Osage reservation; thence east to a point due south of the south-west corner of Butler county; thence north to the south-west corner of Butler county; thence north to the place of beginning.

Attached to Chase
and Butler.

SEC. 3. That the county of Marion is hereby attached to the county of Chase, and the county of Otoe is hereby attached to the county of Butler for judicial and county purposes.

SEC. 4. That this act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 17, 1860.

S. MEDARY,

Governor.

CHAPTER XLI.

AN ACT Perfecting the Organization of Osage County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. It shall be the duty of the register of deeds of Osage county to procure, from the register of deeds of Shawnee county, before the first day of April next, a certified copy of all records in his office which are a lien upon any real or personal property in Osage county, and to copy the same into his books of record.

Register to procure records relating to Osage.

SEC. 2. It shall be the duty of the clerks of the district and probate courts for Shawnee county to transmit to the clerks respectively of the district and probate courts of Osage county, before the first day of April next, all the papers and certified transcripts of all the records in all cases therein pending, which, under the general laws, would belong in the courts of Osage county, as if such cases had been commenced after the change of boundary between said counties ; and said cases shall be prosecuted to completion, as though originally commenced in Osage county.

Clerks of courts in Shawnee to transmit papers relating to Osage.

Cases prosecuted as if originally commenced in Osage.

SEC. 3. The compensation for said services of said register and clerks shall be an amount equivalent to the legal rates provided for such service, and shall be paid out of the treasury of Osage county.

Compensation of register and clerks.

SEC. 4. Philip C. Schuyler, James M. Winchell and O. H. Sheldon are hereby appointed a board of commissioners, who shall act as a county tribunal for Osage county, till a new board shall be elected and qualified under the provisions of the general law enacted at the present session of the Legislature.

Commissioners.

SEC. 5. Said persons shall, also, be empowered, without reference to their duties as a county tribunal, to locate the permanent seat of justice of Osage county, subject to the approval of the people ; and to call a special election, to be held not later than the first day of July next, for the approval or disapproval of said location. All action had under the provisions of this section shall require the assent of each member of said board.

May locate county seat, subject to approval of people.

SEC. 6. Said election shall be conducted according to the provisions of the general election laws ; and each elector may vote a ballot inscribed " For location of county seat " or " Against location of county seat. " If a majority of the votes cast shall

Election how conducted.

be for the location of the county seat, then the action of the commissioners shall stand approved, and the place thus selected shall become the permanent seat of justice of Osage county.

Tribunal to take steps for erection of county buildings.

SEC. 7. Immediately after the approval of said location by the people, it shall be the duty of the county tribunal to procure plans and specifications for the necessary county buildings, to advertise for proposals for their erection, to levy taxes and issue county bonds, and take all necessary steps for the speedy completion of the same.

If location not ratified, commissioners to make new location.

SEC. 8. In case the people shall not ratify the location of the county seat as aforesaid, it shall be the duty of said board to make a new location and call a new election, within thirty days thereafter, to be held according to the provisions of the sixth section of this act.

Tribunal to cause offices and records to be removed to county seat when.

SEC. 9. It shall be the duty of the county tribunal to cause the offices and records of said county to be removed to the permanent county seat as soon as the necessary buildings are prepared for their reception.

Southern boundary.

SEC. 10. The southern boundary of Osage county is hereby removed and placed upon the line dividing townships eighteen (18) and nineteen (19.)

Special election for county officers how conducted.

SEC. 11. A special election for the county officers created by the general law, passed during the present session of the Legislature, entitled "An Act relating to Counties and County Officers," shall be held in Osage county, on the fourth Monday in March, 1860, and shall be conducted in accordance with the provisions of the general election laws; and the present county officers of Osage county shall hold their respective offices no longer than until their successors, as herein provided for, shall be elected and qualified.

Present officers continue how long.

Acts repealed.

SEC. 12. All acts and parts of acts conflicting with this act are hereby repealed.

SEC. 13. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER XLII.

AN ACT to Establish Peketon County.

Be it enacted by the Governor and Legislative Assembly of Kansas Territory :

SECTION 1. That all that territory west of the sixth principal ^{Boundaries.} meridian and south of township sixteen, in Kansas Territory, be and the same is hereby erected into a county, to be known by the name of Peketon county.

SEC. 2. That the temporary county seat of said county shall ^{Temporary county seat.} be at Beach Valley.

SEC. 3. That Ashel Beach, A. C. Beach and Samuel Shoff be ^{Commissioners.} and are hereby appointed commissioners to divide said county into election precincts, fix places for holding elections and make all necessary arrangements for the first election in said county.

SEC. 4. That the first election in said county shall be the ^{First election.} annual spring election, in March, 1860, at which time the people of said county may elect a full set of county and township officers.

SEC. 5. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 21, 1860.

S. MEDARY,

Governor.

CHAPTER XLIII.

AN ACT Establishing and Organizing the Counties of Republic, Shirley and Ottawa, and to define the Boundaries thereof.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That the territory composed of townships one, two, ^{Boundaries.}

three and four south, in ranges one, two, three, four and five west of the sixth principal meridian, shall constitute the county of Republic; and the territory composed of townships five, six, seven and eight south, in ranges one, two, three, four and five west of the sixth principal meridian, shall constitute the county of Shirley; and the territory composed of townships nine, ten, eleven and twelve south, in ranges one, two, three, four and five west of the sixth principal meridian, shall constitute the county of Ottawa.

Commissioners.

SEC. 2. The following named persons are hereby appointed commissioners for the aforementioned counties, to wit: For the county of Republic, Christopher Strohm, David Ballard and John Bellows; for the county of Shirley, F. N. Blake, M. S. Essick and — Gates, of Clay county, near Batchelor; for the county of Ottawa, R. C. Whitney, Henry Martin and — Branch, of Pike creek.

Take oath.

SEC. 3. The above named commissioners, after having taken and subscribed an oath, before some officer authorized to administer the same, faithfully to perform the duties assigned them in this act, shall proceed immediately to district the respective counties to which they are assigned in the preceding section, as provided for in the law relating to county commissioners; and, also, to divide their respective counties into voting precincts, to suit the convenience of the voters thereof. The said commissioners

District counties.

Locate temporary county seats.

shall, also, proceed to locate temporarily the county seats of the respective counties to which they are assigned, having due regard, in locating the same, to the geographical center of the counties and the convenience of the present and probable future population. It shall, also, be the duty of the commissioners above named to receive the poll books and tally lists of the election provided for by this act, to canvass the same and make returns thereof, in accordance with the provisions of the law relating to the canvass of the general election for county officers, by the county boards of canvassers.

Receive poll books and make returns according to law.

Election for officers.

SEC. 4. There shall be an election held on the fourth Monday of April next, at the different precincts within the counties organized by this act, at which there shall be elected all the county officers provided by law to be elected at a general election, and all the township officers provided for by law to be elected at an annual township meeting; and the county officers elected at this election shall hold their offices till their successors are elected, at the next general election for county officers throughout the Ter-

Persons elected continue in office how long.

ritory, and shall have qualified. This election shall be held in accordance with the provisions of the general election laws of the Territory, except wherein otherwise specified in this act. The poll books and tally lists shall be returned, by the judges of election, at the different precincts in the several counties, to the boards of commissioners appointed by this act for their respective counties. At this election, but ten days residence in the county shall be required of any elector otherwise qualified in accordance with the provisions of the general election law; and that portion of the general election law which relates to registration shall not apply to the election herein provided for.

Election how conducted.

Returns made to commissioners of county.

Qualifications of electors.

SEC. 5. If, from any cause, any commissioner appointed by this act shall be unable to perform the duties of commissioner, he shall have power to appoint a substitute; and should he fail to appoint a substitute, the remainder of the board may proceed to fill the vacancy so caused.

Vacancy in board how filled.

SEC. 6. All acts or parts of acts inconsistent with this act are hereby repealed.

Acts repealed.

SEC. 7. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER XLIV.

AN ACT to Organize the County of Saline, and to Define the Boundaries thereof.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That portion of the Territory of Kansas described within the following limits, to wit: Beginning at a point on the

Boundaries.

sixth principal meridian, where the line between townships twelve and thirteen, south, crosses the same ; thence south for twenty-four miles, following said sixth principal meridian, to a point where the line between townships sixteen and seventeen crosses the same ; thence west, following said line for thirty miles ; thence north, following the line between townships, range five and six west of said meridian, to the line between townships twelve and thirteen, south ; thence east, along said line, to the place of beginning, shall be and the same is hereby declared to constitute a county, to be known as Saline county.

Temporary county seat.

SEC. 2. The county seat of said county is hereby located temporarily at Salina ; but the county commissioners of said county shall provide for the submission of the permanent location of county seat to the legal voters of said county at the first general election after the organization of said county.

Commissioners and their duties.

SEC. 3. That A. C. Spilman, Israel Marcey and C. Holtsman be and the same are hereby created a board of commissioners ; that said commissioners shall meet at Salina, on the first Monday in April, or as soon thereafter as practicable ; that they shall elect one of their number chairman and one clerk, and shall proceed to divide said county into two or more municipal townships, defining the boundaries of the same and establishing voting precincts therein, and appointing judges of election for said precincts ; and they shall issue notices of election, not less than three in each precinct, giving thirty days' notice, defining the boundaries of said precincts, the date of election, place of holding it, and hours at which the polls shall be open, and, further, the officers to be elected ; and that the said election shall be held on the first Monday in June, A. D. 1860 ; or if, on the failure to hold election on that day, on any subsequent day, notice as above being given. The said judges of election shall forward the poll books, certified to by them, to the board of commissioners, together with the vote, which shall be canvassed by said commissioners, and an abstract thereof, certified to by them, shall be sent to the Governor, who shall thereupon issue certificates of election or commissions to the persons who shall thus have been elected.

Election when held.

Judges make returns to whom.

Qualifications of electors.

SEC. 4. At said election, the inhabitants of said Saline county shall proceed to elect all county officers, as provided for by law. The qualifications for voters shall be the same as prescribed by the organic act, there being no registry in said county.

SEC. 5. The clerk of the commission hereinbefore provided

for, shall be clerk and *ex officio* recorder of said county, until county clerk and recorder shall be elected and qualified. He shall keep a faithful record of all these proceedings, and his book of record shall be legal evidence in all matters pertaining to real estate.

Clerk of commissioners to act as clerk and recorder of county.

Records legal evidence.

SEC. 6. The board of commissioners, with their clerk, as provided above, shall each of them, before entering on their duties, take an oath for the faithful performance of the same.

Officers elected.

SEC. 7. Hugh M. Morrisson is hereby created a justice of the peace in and for said county, with power to administer oaths, and do all things pertaining to a justice of the peace; and the Governor of the Territory is hereby authorized to commission him as such; and the said Morrisson shall continue to hold his office of justice of the peace until some justice of the peace, probate judge or other judicial officer be elected and qualified for said county.

Justice of the peace created.

Hold office until a judicial officer is qualified.

SEC. 8. This act to be in force and take effect from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 15, 1860.

S. MEDARY,
Governor.

CHAPTER XLV.

AN ACT Relative to County Orders for the County of Shawnee.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That all county orders for the county of Shawnee which shall be audited and issued from and after the first day of April, eighteen hundred and sixty, shall draw interest at the rate of ten per centum per annum.

All orders to draw interest after April, 1860.

SEC. 2. This act shall take effect and be in force from and after the first day of April next.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 23, 1860.

S. MEDARY,

Governor.

CHAPTER XLVI.

AN ACT Defining and Establishing the Northern Boundaries of Shawnee and Osage Counties.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Boundaries of
Jackson and
Shawnee.

Shawnee and
Osage.

Acts repealed.

SECTION 1. That the boundary line between Jackson and Shawnee counties shall be upon the second standard parallel.

The boundary line between Shawnee and Osage counties shall be upon the township line between townships thirteen and fourteen.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 23, 1860.

S. MEDARY,

Governor.

CHAPTER XLVII.

AN ACT to Define the Boundary Line between Wabaunsee and Davis
Counties.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas :*

SECTION 1. That the boundary line between Wabaunsee and Boundary.
Davis counties is and shall hereafter be the second section line
west of the east guide meridian.

SEC. 2. That the register of deeds in and for Wabaunsee Register to transcribe records relating to Wabaunsee.
county is hereby empowered and directed to transcribe all deeds,
mortgages and other instruments of writing affecting any of the
real estate hereby detached from Davis county, from the records
of said Davis county, into a suitable book, and to keep the same
in his office. Said records shall be of the same force and effect Legality of such records.
as if originally made in said office ; and said register shall be
allowed the usual compensation for making such records, to be
paid by said Wabaunsee county.

SEC. 3. All acts and parts of acts inconsistent with this act are Acts repealed.
hereby repealed.

SEC. 4. This act to take effect and be in force from and after
its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 17, 1860.

S. MEDARY,
Governor.

CHAPTER XLVIII.

AN ACT to Provide for the Organization of the County of Washington,
Kansas Territory.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas :*

Detached from
Marshall county.

SECTION 1. That the county of Washington, heretofore attached to the county of Marshall, is hereby detached from the said county of Marshall.

Special election
for officers when
held.

SEC. 2. That a special election shall be held in the several precincts within the county of Washington, for the election of county officers for said county, on the fourth Monday of April, A. D. 1860, at which election there shall be elected all the county officers provided for by the general laws of the Territory regulating counties and county officers.

Returns made to
whom, &c

SEC. 3. The returns of this election shall be made from the several precincts to the township board of canvassers of Washington township, in said county, within one week of the date of the election, who shall, within one week after the reception thereof, complete the canvass and make the return thereof to the Territorial officers, in the manner prescribed by law for the canvass of the general election for county officers by the county boards of canvassers.

Persons elected
hold office how
long.

SEC. 4. The county officers referred to in this act shall hold their offices till their successors shall be elected at the next general election for county officers and shall have qualified.

Qualifications of
voters.

SEC. 5. The qualifications of voters at this election shall be the same as those required at a general election, and the election shall be subject to and held in accordance with the provisions of the general election law, except when otherwise specified in this act.

Acts repealed.

SEC. 6. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 7. This act to take effect and be in force from and after the second Monday in April, A. D. 1860.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 21, 1860.

S. MEDARY,
Governor.

CHAPTER XLIX.

AN ACT Respecting the Duties of County and Township Officers.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. The county treasurer of each county shall be authorized to receive and receipt for taxes in their counties, at all times, where the same are due. Treasurers authorized to receive taxes.

SEC. 2. It shall be the duty of each township and county clerk, on the levying of the township and county tax by the respective boards thereof, to certify the amount to the county treasurer, who shall keep a record of the same. Township and county clerk to certify amount of taxes to county treasurer.

SEC. 3. It shall be the duty of each township clerk, on the receipt of the assessment rolls of their townships, to certify a copy of the same to the county treasurer. Township clerk to certify copy of assessment roll to county treasurer.

SEC. 4. This act to take effect from and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER L.

AN ACT for the Permanent Location of the County Seat of Allen County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That there shall be held, at the usual places of holding elections in the different election precincts in the county of Allen, Territory of Kansas, on the fourth Monday of March, A. D. 1860, an election for the location of the seat of justice for the said county of Allen, and every legal voter shall indicate Election for county seat.

on his ballot the place of his choice ; and the place having a majority of all the votes cast shall be declared the county seat of said county.

In case no choice made.

SEC. 2. That, in case no point shall receive a majority of all the votes cast, then there shall be held a second election, on the fourth Monday of April, A. D. 1860, for the said county seat ; and, at said second election, the balloting shall be confined to the two places having received the largest number of votes at the previous election.

No taxes levied for county buildings until question is settled.

SEC. 3. That no taxes shall be levied in the said county of Allen for the erection of county buildings until the question of the permanent location of the seat of justice for said county shall have been decided by a vote of the people.

Election how conducted.

SEC. 4. That the voting shall be by ballot, and the election provided for in this act conducted, in all respects and by the same officers, as provided for by the general election laws of the Territory.

Returns to whom made.

SEC. 5. That the number of votes which each place shall receive, duly certified to by the judges and attested by the clerks, shall be sent up, at each of the elections provided for in this act, to the tribunal transacting county business, in the same manner and by the same persons as provided by the general election law for sending up township returns ; and the tribunal transacting county business shall immediately proceed to cast up the votes ; and the place having a majority of all the votes cast shall be proclaimed, by the tribunal transacting county business, to be the seat of justice of said county, declaring the fact by written or printed proclamations, which they shall cause to be posted in at least six different places in said county, within ten days after the Friday next following said elections.

Duties of tribunal in regard to election.

County officers to remove to county seat.

SEC. 6. That it shall be the duty of each of the county officers of said county of Allen to remove, within thirty days after the county seat of said county shall be located according to the provisions of this act, to the place so declared to be the county seat of said county, with all their books, papers, records and all moveable property belonging to the county, whatsoever, and to hold their office there, as they are required by law.

Sheriff to publish notices of elections.

SEC. 7. That the sheriff of the said county of Allen shall publish notices of the elections required by this act, by posting up, in at least three of the most public places in each voting precinct in said county, at least ten days before each of said elections, notice of the time of holding said elections ; *Provided*, Said

elections shall not be illegal or invalid for want of any proclamation of the Governor, as required by the general election law.

SEC. 8. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 18, 1860.

S. MEDARY,
Governor.

CHAPTER LI.

AN ACT Supplemental and Amendatory of an Act entitled "An Act to Provide for the Location of the County Seat of Allen County," approved February 18, 1860.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That, at the several elections provided for in the act to which this act is supplemental, the qualification of voters shall be as follows : Every male person, of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the county of Allen three months next preceding the election, and ten days in the township in which they offer to vote, shall be deemed a qualified voter at such election : First, White citizens of the United States. Second, White persons of foreign birth, who have declared their intention to become citizens, conformably to the laws of the United States on the subject of naturalization. Qualifications of voters.

SEC. 2. All acts or parts of acts conflicting with this act are hereby repealed. Acts repealed.

SEC. 3. This act to be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 25, 1860.

S. MEDARY,
Governor.

CHAPTER LII.

AN ACT to Provide for the Permanent Location of the County Seat of Breckinridge County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Election for
county seat.

SECTION 1. That there shall be held, at the usual places of holding elections in the different townships in the county of Breckinridge, Kansas Territory, on the Tuesday next after the first Monday in November, A. D. 1860, an election for the permanent location of the seat of justice of said county; and said election shall be conducted, in all respects, in accordance with the provisions of the laws of this Territory regulating elections, except that the boards of election judges shall, within three days after each of the elections provided for in this act, furnish to the county clerk of said county a certified copy of the poll book and tally list of their respective townships; and the county clerk shall deliver the same to the probate judge of said county, on the Monday following the election, who shall immediately proceed to canvass the votes and declare the result, by at least ten written or printed notices, posted in as many public places in said county.

Judges to furnish
copy of poll book,
&c, to county
clerk.

Clerk deliver
same to probate
judge.

Election how con-
ducted.

SEC. 2. That, at each of the elections provided for in this act, every legal voter of said county may deposit a ballot, upon which shall be written or printed the name of the place of his choice; and, should no place receive a majority of all the votes cast, then there shall be a second election held, on the third Tuesday after the first election, which shall be conducted, in all respects, like the first.

In case no choice
made.

In case no choice
made at second
election.

SEC. 3. That, should no place receive a majority of all the votes cast at the second election, then a third election shall be held, on the third Tuesday after the second election, which shall be conducted, in all respects, like the first two, except that no votes shall be counted except such as are cast for the two places receiving the highest number of votes at the second election.

No taxes levied
for building un-
til question decid-
ed.

SEC. 4. That there shall be no taxes levied, assessed or collected in said county, for the erection of public buildings in said county, until the seat of justice shall be established in accordance with the provisions of this act.

Acts repealed.

SEC. 5. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER LIII.

AN ACT Providing for the Permanent Location of the County Seat of Douglas County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That there shall be held, at the usual places of holding elections, in the different election precincts within the county of Douglas, Kansas Territory, on the fourth Monday in March, A. D. 1860, an election for the location of the permanent seat of justice of the said county of Douglas, and a poll shall be opened at each of the places aforesaid, and every legal voter of said county may vote for the place of his choice; and the place receiving a majority of the votes cast shall be the permanent seat of justice of said county. Election for county seat.

SEC. 2. That, in case no point receives a majority of the votes cast, there shall be held a second election for said seat of justice, on the fourth Monday in April, at which second election the balloting shall be confined to the two places having the highest number of votes at said first election. In case no choice made.

SEC. 3. That there shall be no taxes levied in the said county of Douglas for the erection of county buildings, until the question of the permanent location of the seat of justice of said county be decided by a vote of the people. No taxes for building until question settled.

SEC. 4. The voting shall be by ballot, and the poll books on which the voters' names are recorded, and the number of votes each place received, properly attested, shall be returned to the Returns made to county clerk.

Probate judge to
cast up votes and
make proclama-
tion.

clerk of the county of Douglas, within three days after said election; and the probate judge of the county aforesaid shall immediately proceed to cast up the votes; and the place having a majority of the votes cast shall be proclaimed, by the said probate judge, the permanent seat of justice of Douglas county, declaring the fact by a printed proclamation, and having the same posted up in at least twelve different public places throughout the county.

If judge neglects
duty.

SEC. 5. Should the probate judge, by any means, neglect or fail to cast up the votes and proclaim the result as herein provided, then a mandamus shall issue out of the district court, on application of any twenty citizens of the county aforesaid, under the proceeding of which writ of mandamus the said probate judge shall be compelled to perform all his duties under and by virtue of this act.

Qualifications of
voters.

SEC. 6. All persons shall be qualified to vote under this act who are qualified voters under the general election law of the Territory.

Acts repealed.

SEC. 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 8. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 25, 1860.

S. MEDARY,

Governor.

CHAPTER LIV.

AN ACT to Provide for the Location of the County Seat of Franklin County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Election for
county seat.

SECTION 1. That there shall be held, at the usual places of holding elections, in the different election precincts within the county of Franklin, Kansas Territory, on the fourth Monday of

March, 1860, an election for the location of the permanent county seat of justice of said county, under the provisions of the general election law; and every legal voter of said county may vote for the place of his choice, and the place receiving a majority of all the votes cast shall be the permanent seat of justice of said county.

SEC. 2. That, if no place receive a majority of all the votes cast, there shall be held a second election for said seat of justice, on the third Monday of April following, and the balloting at said second election shall be confined to the two places having the highest number of votes at the said first election. In case no choice made.

SEC. 3. That the voting shall be by ballot, on which shall be written or printed the place of the voters' choice; and the poll books on which the voters names are recorded, and the number of votes each place received, properly attested, shall be returned to the clerk of Franklin county, within five days after said election; and the present board of supervisors of said county shall immediately proceed to canvass the votes; and the place having a majority of all the votes cast shall be proclaimed by them the permanent county seat of said county, either by written or printed proclamation, and have the same posted up in at least two places in every township. Voting by ballot. Returns made to county clerk. Supervisors to canvass votes and proclaim result.

SEC. 4. That if, upon the canvassing of said votes by the said supervisors, they shall find that no place has received a majority of all the votes cast, it shall be their duty to proclaim the same (and, also, the time of the second election as herein provided,) as is provided in section third of this act; and the canvass of the votes of the second election and proclamation of the result shall be the same as the first, except they shall post only one notice in each of the several townships. If no choice made, duty of supervisors.

SEC. 5. That it shall be the duty of all officers, now or then holding office in said county, to remove their offices, together with all the books, records, papers, furniture and other materials belonging in any manner to said county to the place herein located, within thirty days after said proclamation; and, if any officer of said county shall so fail in any way to remove his office as herein provided, it shall be deemed a misfeasance of office, and [he] shall be fined a sum not less than twenty dollars for every day he shall so refuse or neglect, to be collected by any person, before any court of competent jurisdiction, for the benefit of the county. Officers to remove to county seat. Failure to remove.

SEC. 6. That the judges and clerks of the said second election shall not claim or be paid any sum for their services on the day of the said second election. Officers of election receive no pay at second election.

Acts repealed.

SEC. 7. All acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 8. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 25, 1860.

S. MEDARY, *Governor.*

CHAPTER LV.

AN ACT to Provide for the Location of the County Seat of Linn County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Election for county seat.

SECTION 1. That there shall be held, at the usual places of holding elections, in the different election precincts within the county of Linn, Kansas Territory, on the fourth Monday of March, 1860, an election for the location of the permanent seat of justice of the said county of Linn ; and a poll shall be opened at each of the places aforesaid, and every legal voter of said county may vote for the place of his choice, and the place receiving a majority of the votes cast shall be the permanent seat of justice of said county.

If no choice made

If no choice made at second election

Provide.

No tax levied until question decided.

Supervisors act as judges.

SEC. 2. That, in case no point receive a majority of the votes cast, there shall be held a second election for the said seat of justice, on the third Monday in April, A. D. 1860 ; and, still failing to elect, an election shall be had every third Monday thereafter, until said seat of justice be permanently located, according to the provisions of the preceding section ; *Provided*, That, after the second election, the balloting shall be confined to the two places having the highest number of votes at said second election.

SEC. 3. That there shall be no money expended or tax levied in the county of Linn, for the erection of county buildings until the question of the permanent location of the seat of justice shall have been decided by a vote of the people, in accordance with the provisions of this act.

SEC. 4. The judges of said election shall be the persons elected as the board of supervisors in March, 1859, and shall proceed

according to the law regulating elections, excepting as otherwise provided in this act.

SEC. 5. The voting shall be by ballot, and the poll books on which the voters names are recorded, and the number of votes each place received, signed by the judges and clerks, shall be returned to the clerk of the county of Linn, within three days after the election; and the probate judge and clerk of the said county of Linn shall immediately proceed to canvass the votes; and the place having a majority of the votes cast shall be proclaimed the seat of justice of Linn county, by a proclamation, signed by the said probate judge and county clerk, and posted in at least twelve public places in the county.

Voting by ballot.

Returns made to county clerk.

Probate judge and clerk to canvass votes and proclaim result.

SEC. 6. Should the said probate judge and clerk, or either of them, neglect or refuse to canvass the votes and proclaim the result as above provided, then a writ of mandamus shall issue out of the district court, on application of any twenty citizens of the county, under the proceedings of which writ the said officer and officers shall be compelled to perform all their duties under and by virtue of this act.

Neglect to canvass by judge and clerk.

SEC. 7. Upon the issuing of the above proclamation, declaring that the point therein named has received a majority of the votes cast, the tribunal transacting county business shall proceed to provide suitable buildings, offices, &c., for the officers of the county; and each officer of the said county of Linn, whose office is required by law to be kept at the county seat, shall, within fifteen days of the date of said proclamation, remove all books, records or other documents, belonging to the county, to the place therein named; and, if any officer shall fail to remove within the time prescribed by this section, he or his securities shall pay to the county, for its use, the sum of five dollars for each day of such failure, to be sued for and collected by the county board of supervisors.

When seat declared tribunal to erect buildings.

Officers to remove to county seat.

Failure to remove

SEC. 8. That the qualifications of a voter under this act shall be the same as prescribed by the general election laws of this Territory.

Qualifications of voters.

SEC. 9. All acts and parts of acts in conflict with this act be and the same are hereby repealed.

Acts repealed.

SEC. 10. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 16, 1860.

S. MEDARY, *Governor.*

CHAPTER LVI.

AN ACT to Provide for the Permanent Location of the County Seat of Marshall County.

WHEREAS, An election was held for the permanent location of the county seat of Marshall county, on the eighth day of November, A. D. 1859, under a law passed at the fifth session of the Kansas Legislature, entitled "An Act to Locate the Permanent Seat of Justice of Marshall County;" and,

WHEREAS, The town of Marysville, in said county, having received a majority of all the votes cast at said election; therefore,

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Permanent county seat.

SECTION 1. That the county seat of justice of Marshall county be and the same is hereby established and permanently located at the town of Marysville, in said county of Marshall.

Certain papers made legal.

SEC. 2. That all summons, orders of attachments and other papers issued, by the clerk of the district court, between the ninth day of February and the eighth day of November, A. D. 1859, shall be as valid and effectual in law as if the same had been issued at the town of Sylvan, the temporary county seat of Marshall county.

SEC. 3. That this act shall be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 16, 1860.

S. MEDARY,

Governor

CHAPTER LVII.

AN ACT to Permanently Locate the County Seat of Washington County,
Kansas Territory.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas:*

SECTION 1. That there shall be held, in the several precincts within the county of Washington, a special election for the purpose of permanently locating the county seat of said county, on the fourth Monday of April, A. D. 1860. The voting at said election shall be by ballot, the ballots having upon them, in printing or writing, the name of the place voted for; and the place receiving the majority of all the votes cast at the said election shall be the permanent county seat of the county of Washington.

Election for
county seat.

Voting by ballot.

SEC. 2. The returns of said election shall be made to the township board of Washington township, in said county of Washington, within seven days from the date thereof, and the returns shall be canvassed by said board and the result declared in a public manner, within eight days from the date of the election.

Returns made to
Washington
township board
and canvassed by
them.

SEC. 3. If no place shall have a majority of all the votes cast at the first election, the board who canvass the returns shall order a new election to be held, on the fifth Monday succeeding the first election, at which election no place shall receive any votes except the two places that received the highest number of votes at the first election. The manner of holding the second election, making the returns thereof and declaring the result shall be, in all respects, the same as prescribed for the first; and the place receiving a majority of the votes cast shall be declared the permanent county seat.

If no choice made

SEC. 4. The qualifications of voters at the election held under this act shall be the same as those required at a general election, and the election shall be subject to and held in accordance with the provisions of the general election laws, except when otherwise provided by this act.

Qualifications of
voters.

SEC. 5. All acts and parts of acts inconsistent with this act are hereby repealed.

Acts repealed:

SEC. 6. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 11, 1860.

S. MEDARY,
Governor.

CHAPTER LVIII.

AN ACT to Permanently Locate the County Seat of Wyandott County.

WHEREAS, An election was held for the permanent location of the county seat of Wyandott county, on the eighth day of November, in the year of our Lord one thousand eight hundred and fifty-nine, in pursuance to the provisions of an act entitled "An Act Creating and Organizing the County of Wyandott," approved January 29, 1859; and,

WHEREAS, The city of Wyandott, having received a majority of all the votes cast at said election; therefore,

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Permanent county seat

SECTION 1. That the county seat of Wyandott county be and the same is hereby permanently located at the city of Wyandott.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved January 28, 1860.

S. MEDARY,
Governor.

CHAPTER LIX.

AN ACT to Change the Time of Holding the Spring Term of the District Court in Douglas County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That, hereafter, the April term of the district court in and for the county of Douglas shall commence on the fourth Monday in April, instead of the third Monday after the fourth Monday in March, and that all returns to the said court be returnable accordingly. Time of holding court changed.

SEC. 2. This act shall be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 15, 1869.

S. MEDARY,

Governor.

CHAPTER LX.

AN ACT Fixing the Times of Holding the Supreme Courts of the Territory of Kansas.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That, for the year eighteen hundred and sixty, the supreme court of the Territory of Kansas shall hold two terms, the first to commence on the last Monday in February, and the second to commence on the second Monday in June. The February term herein mentioned shall be held at the capital, and the June term herein mentioned be held in the city of Leavenworth; and on each succeeding year, two terms of said courts shall be held, the first term commencing on the first Monday of January, at Leecompton, and the second term commencing on the second Monday in June, at Leavenworth. Times of holding supreme court.

Judges may hold
special and ad-
journed terms.

SEC. 2. The judges of the supreme court shall have power to hold such special and adjourned terms, at the capital of the Territory, as may be deemed necessary.

Processes made
returnable, when.

SEC. 3. That all process made returnable to the supreme court on the fifth day of December, A. D. 1859, shall be deemed returnable on the last Monday of February, A. D. 1860.

SEC. 4. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved January 31, 1860.

S. MEDARY,

Governor.

CHAPTER LXI.

AN ACT Authorizing the transcribing of Deeds, &c., for Wabaunsee County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Recorder to trans-
cribe records re-
lating to Wabaunsee county.

SECTION 1. That the recorder of Wabaunsee county be and he is hereby authorized to make out a transcript from the records of Shawnee county of all deeds, mortgages, deeds of trust, bonds and other writings in relation to real estate or any interest therein, being within the limits of Wabaunsee county; and the said recorder is hereby authorized to procure suitable books for the purpose, and he shall be entitled to compensation for said service from the county of Wabaunsee at the usual legal rates.

Compensation.

SEC. 2. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 15, 1860.

S. MEDARY,

Governor.

CHAPTER LXII.

AN ACT Concerning Divorce and Alimony.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That the several district courts in this Territory shall have cognizance of granting divorces, for the following causes : First, Where either of the parties had a former wife or husband living, at the time of solemnizing the second marriage. Second, Where either of the parties shall have been willfully absent from the other one year. Third, Adultery. Fourth, Impotency ; also, where the wife, at the time of marriage, was pregnant by another than her husband. Fifth, Extreme cruelty. Sixth, Fraudulent contract. Seventh, Gross neglect of duty. Eighth, Habitual drunkenness. Ninth, Where either party has been or shall hereafter be sentenced to imprisonment and actually imprisoned in the penitentiary of this Territory, or State prison of any State or Territory of the United States or the District of Columbia, for any violation of the laws of the United States ; or where either party has been or shall hereafter be sentenced to imprisonment and actually imprisoned in the penitentiary in this Territory, for any violation of the criminal laws of this Territory, or in the penitentiary or State prison of any of the United States, or either of the Territories thereof, or the District of Columbia, for any crime or offence against the laws of either of said States or Territories or of the District of Columbia ; *Provided*, Such crime or offence against the laws of such State, Territory or District of Columbia be of the same character or grade as is or may be, by the laws of this Territory, punished by imprisonment in the penitentiary ; and *Provided*, also, That all applications for divorce under the ninth clause of this section shall be made during the imprisonment of the adverse party.

District courts may grant divorces for what causes.

PROVISOR

SEC. 2. That, in addition to the causes of divorce already declared in this act, the several district courts of this Territory shall have power to grant a divorce in favor of a party applying for the same, whenever it shall be made to appear that the husband or wife of such party has obtained a decree of divorce in any of the courts of any other Territory or State, by virtue of which the party who shall have obtained such decree shall have been released from the obligation of the marriage contract, while the same remains binding upon the other party.

Additional cause

Applicant shall
file petition when
and its contents.

Clerk to issue no-
tice to adverse
party.

Proviso.

Adverse party to
appear and an-
swer petition.

In case said party
does not appear.

Proviso.

SEC. 3. That, in all cases where a divorce shall be applied for, the complainant shall file his or her petition in the office of the clerk of the court of the proper county, at least two months before the sitting of said court, which petition shall, in all cases, distinctly set forth the true cause of complaint; and, if the adverse party is a resident of the county in which the petition is filed, the clerk of said court shall issue a summons, directed to the sheriff of the county, which shall be served on the adverse party, at least six weeks before the sitting of said court; but, if the party defendant is not a resident of the county in which the petition shall be filed, then notice shall be given of the pendency of said petition, by publication, in some newspaper of general circulation, for the term of six consecutive weeks, which notice shall contain the substance and prayer of said petition; and, in such case, a summons and a copy of the petition shall forthwith, on the filing of said petition, be deposited in the post office, directed to the party defendant, at his or her place of residence, unless it shall be made to appear, to the satisfaction of said court, by affidavit or otherwise, that such residence is neither known to said applicant, nor can, with reasonable diligence, be ascertained by him or her; or, if the adverse party shall reside in any other county in this Territory, the applicant may, at his or her election, give notice, by service of a summons and a copy of the petition, which service shall be made at least six weeks before the sitting of said court; *Provided*, That nothing in this act shall be so construed as to prevent a hearing or decision of the cause at the first term after the petition shall be filed.

SEC. 4. The party, by such summons, shall be required to appear and answer said petition, which answer shall be received without oath; and, if the party complained of shall not appear, or, appearing, shall admit or deny the allegations in said petition, the court shall thereupon proceed to hear and determine the same; and if, upon hearing any or all of the charges in said petition (to be confined to the causes enumerated in the first section of this act,) it shall, by disinterested testimony, be proved to the satisfaction of said court, the court may proceed to pronounce the marriage contract dissolved, and both of the parties released from the obligations of the same; *Provided*, That the dissolution of such marriage shall in no wise affect the legitimacy of the children thereof; and the court shall make such order for the disposition, care and maintenance of the children of such marriage, if any there be, as shall be just and reasonable.

SEC. 5. That, upon the hearing of the petitions for divorce, Evidence received the court may permit proofs of the admissions of the parties to be received in evidence, carefully excluding such as they shall find reason to believe have been obtained by connivance, fraud, coercion or other improper means.

SEC. 6. That, in all cases where an application is made for divorce, under the provisions of this act, proof of cohabitation and reputation of the marriage of the parties shall be admitted, Cohabitation and reputation of marriage may be received as evidence of marriage and, at the discretion of the court or jury trying the cause, may be received as sufficient evidence of such marriage, any law, usage or custom to the contrary notwithstanding.

SEC. 7. That, where a divorce shall be granted by reason of the aggression of the husband, the wife shall be restored to all her lands, tenements and hereditaments, not previously disposed of, and to her maiden name, if she so desires, and shall be allowed such alimony, out of her husband's real and personal property as the court shall think reasonable, having due regard to the property which came to him by marriage, and the value of his real and personal estate, at the time of said divorce, which alimony may be allowed to her in real or personal property, or both, or by decreeing to her such sum of money, payable either in gross or installments, as the court may deem just and equitable; and, if the wife survive her husband, shall, also, be entitled to her right of dower in the real estate of her husband, not allowed her as alimony, of which he was seized at any time during the coverture, and to which she had not relinquished her right of dower; but, if the divorce shall arise by reason of the aggression of the wife, she shall be barred of all right of dower in the lands of which her husband shall be seized at the time of the filing of the petition for divorce, or which he may thereafter acquire, whether there be issue or not; and the court shall order to her restoration of the whole of her lands, tenements or hereditaments, not previously disposed of, and, also, such share of her husband's real or personal property, or both, as to such court may appear just and reasonable. Where divorce granted by reason of aggression of husband, wife shall be restored to what.

SEC. 8. That all applications for divorce or for alimony under the provisions of this act, shall be made in the county where the complainant *bona fide* resides at the time of making such application, or in the county where the cause of complaint arose or took place; and the court shall hear and determine the same, whether the marriage took place or the cause of divorce occurred within the Territory or elsewhere; *Provided*, The petitioner shall be a Applications made in county where complainant resides, Proviso.

resident of the Territory at least one year next before the filing of his or her petition in the clerk's office of said court.

Court may grant alimony to wife while petition pending

SEC. 9. That the said court shall have the power to grant alimony to the wife for her sustenance, during the pendency of a petition for divorce filed for any of the causes aforesaid.

Wife may petition for alimony alone for what causes.

SEC. 10. That the wife may file her petition, as aforesaid, in the district court, for alimony alone, without the prayer for the dissolution of the marriage contract, for the following causes, to wit: First, Adultery. Second, Gross neglect of duty. Third, Abandonment of the wife, without good cause. Fourth, When there is a separation in consequence of ill treatment on the part of the husband. Fifth, Habitual drunkenness; and, Sixth, Confinement in the penitentiary of Kansas, or in the penitentiary or State prison of any of the United States, or either of the Territories thereof, or the District of Columbia, for any crime or offence of the same character or grade as is or may be, by the laws of this Territory, punished with imprisonment in the penitentiary, in which case the application shall be made while the husband is so confined.

Proceedings same as for divorce.

SEC. 11. The proceedings on said petition for alimony alone shall, in all respects, be conducted as in applications for divorce, under the provisions of this act; and the said court shall, upon satisfactory proof of any or all the charges in said petition, make such order for the disposition, care and maintenance of the children of such marriage, if any there be, as shall be just and reasonable, and restore to the wife all her lands, tenements and hereditaments not previously disposed of, and shall give judgment in her favor for such alimony, out of her husband's real and personal property, as may be just and equitable, to be allowed to her in real or personal property, or both, or in moneys, payable either in gross or in installments; and the court shall, also, by their said judgment, vest in her the right and power to acquire, hold, and manage and dispose of property, money and choses in action, and to bring and maintain suits in her own behalf, free from the control or interference of her said husband; or the same may be vested in trustees for her use or benefit.

Court may make order for care of children, make restoration to wife of property, and give alimony.

Shall vest in her the power to acquire and hold property.

Or in trustees.

Residence of husband shall not preclude her from benefits of this act.

SEC. 12. That, when the wife shall file her petition, under the provisions of this act, praying for a divorce from her husband, or for alimony alone, the residence of her husband shall not be so construed as to preclude her from the provisions of this act.

Change of venue when.

SEC. 13. A change of venue shall be allowed, by any court in which any petition for divorce or alimony may be filed, for the hearing and determination of the same, upon the petitioner mak-

ing application therefor, and making an affidavit that in his or her behalf a fair and impartial hearing and determination cannot be had before the court in which the petition is filed ; and, in case of such change of venue, the cause shall be removed to any county of the same judicial district, for hearing and determination.

SEC. 14. That any married woman may file her petition, in the district court, setting forth that her husband, from habitual intemperance or any other cause, is about to waste and squander the property, (legal or equitable,) money, credits and choses in action to which she is entitled in her own right, or any part thereof, or is proceeding fraudulently to convert the same or any part thereof to his own use, for the purpose of placing the same beyond her reach and depriving her of the benefit thereof ; and the court, upon the hearing of the case, may enjoin the husband from disposing of or otherwise interfering with such property, moneys, credits and choses in action, and may appoint a receiver to manage and control the same, for the benefit of the wife, and may, also, make such other order in the premises as they may deem just and proper ; and, upon the filing of such petition, a provisional injunction may be allowed as in other cases ; and such petition shall be filed in the county where said petitioner resides ; and the husband of said petitioner shall be made a party defendant to said petition, in the same manner as is provided for by the second section of this act, in the case of a petition for divorce.

Wife may file petition to enjoin husband from improperly disposing of property.

Husband made defendant

SEC. 15. In all applications for divorce or alimony alone, and in cases where the petition is filed under the eleventh section of this act, where the witnesses shall reside in the county in which the application is made or the petition filed, they shall be examined in open court ; but, if they shall reside without the county or are unable to attend court, their depositions may be taken as in other cases ; but when the adverse party shall not reside within the county where the application or petition is pending, or in an adjoining county, or shall not have an attorney residing in the county where such application or petition is pending, or in an adjoining county, the usual notice of the time and place of taking such depositions shall not be required ; but, in such cases, notice of the time and place of taking such depositions shall be given by publication in some newspaper circulating in the county where the case is pending, for three consecutive weeks before the time of taking such depositions ; and a copy of such notice shall, at or before the first publication thereof, be deposited in the post office, properly directed to the party defendant, at his or her

Resident witnesses examined in open court; non-residents by deposition.

If adverse party non-resident, notice how given.

place of residence, when such residence is known to the petitioner, or can, with reasonable diligence, be ascertained by him or her.

No appeal allowed.

SEC. 16. That, in case of petition for divorce or petition for alimony alone, no appeal shall be allowed from any judgment or order of the district court.

Act repealed.

SEC. 17. That "An Act Concerning Divorce and Alimony," approved February 7, 1859, be and the same is hereby repealed.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXIII.

AN ACT relating to Dower.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Widow endowed of third part of estate.

SECTION 1. Every widow shall be endowed of the third part of all the lands whereof her husband, or any other person to his use, was seized of an estate of inheritance, at any time during the marriage, to which she shall not have relinquished her right of dower in the manner prescribed by law, to hold and enjoy during her natural life. Dower in leasehold estate, for a term of twenty years or more, shall be granted and assigned as in real estate; for a [less] term than twenty years, shall be granted and assigned as in personal property.

Dower in leasehold estate, how granted.

Widow may, within six months from husband's death, be entitled to benefits of this and other acts.

SEC. 2. Every widow, within six months from the date of the death of her husband, may, as she may prefer, use for her benefit either the provisions of this act or those of an act entitled "An Act concerning Descents and Distributions," approved February 8, 1859, or an act entitled "An Act to protect the rights of married women and in relation to the liabilities incident to the married contract relation," approved February 7, 1859.

SEC. 3. When the husband shall die, leaving a child or children or other descendants, the widow shall be entitled, absolutely, to a share in the personal estate belonging to the husband at the time of his death, equal to the share of a child of such deceased husband, or, at her option, to one-third part of the personal estate, absolutely.

When children survive, widow entitled to share in personal estate equal to child.

SEC. 4. When the husband shall die without any child or other descendants in being, capable of inheriting, his widow shall be entitled: First, To all the real and personal estate which came to the husband in right of the marriage, remaining undisposed of, absolutely. Second, To one half of the real and personal estate belonging to the husband at the time of his death, absolutely.

When husband leaves no inheritors, widow entitled to what.

SEC. 5. When the husband shall die, leaving such child or descendants, but not by his last marriage, his widow may, in lieu of dower, elect to take, in addition to her real estate, the personal property in possession of the husband, that came to him in right of the wife by means of the marriage.

When children by former marriage left.

SEC. 6. When the husband shall die without a child, or other descendant living, capable of inheriting, the widow shall have her election to take her dower as provided in the first section, discharged of debts, or the provisions of the fourth section, subject to debts.

When husband die without child or descendant, wife may choose what

SEC. 7. Such election shall be made by declaration, in writing, acknowledged before some officer authorized to take acknowledgment of deeds, and filed in the office of the clerk of the court in which letters testamentary or of administration shall have been granted, within six months after the grant of the same; otherwise, she shall be endowed under the provisions of the first section of this act.

Wife shall declare choice within six months.

SEC. 8. No act, deed or conveyance, executed or performed by the husband, without the assent of the wife, evidenced by her acknowledgment thereof, in the manner required by law, to pass the estate of married women, and no judgment or decree, confessed by, or recovered against him, and no laches default, coven or crime of the husband, shall prejudice the right and interest of the wife provided in the foregoing sections of this act.

No act or conveyance of husband, without consent of wife, shall prejudice her rights by this act.

SEC. 9. If any woman be divorced from her husband, for the fault or misconduct of such husband, she shall not thereby lose her dower; but, if the husband be divorced from the wife for her fault or misconduct, she shall not be endowed.

If woman divorced for fault of husband.

Sed. 21.

SEC. 10. If any testator shall, by will, pass any real estate to his wife, such devise shall be in lieu of dower, out of the real

If real estate passed by will.

estate of her husband whereof he died seized, unless the testator, by his will, otherwise declare.

In such case shall not be endowed in real estate unless she accepts provisions of will within twelve months.

SEC. 11. In such case, the wife shall not be endowed in any of the real estate whereof her husband died seized, unless she shall, by writing, duly executed and acknowledged, as in case of deeds for land, and filed in the office of the court in which the will is proven and recorded, within twelve months after the proof of the will, not accept the provisions made for her by said will.

If woman, prior to marriage, shall receive any estate as full discharge of claim to dower

SEC. 12. If any woman, prior to or in contemplation of marriage, shall, on agreement or marriage contract with her intended husband or other person, receive any estate, either real or personal, to take effect after the death of her husband, by way of jointure, as a provision for her support during life, and expressed to be in full discharge of all her claim of dower, such estate shall be valid and a bar to dower in the estate of her husband. When

When any lands have been or shall be conveyed to husband or wife, or to the use of the wife

any lands have been or hereafter shall be conveyed to the husband and wife, or to any other person and their heirs, and to the use of the husband and wife, or to the use of the wife, for the jointure of the wife, every such married woman, having such jointure made, shall not claim any dower in the residue of the lands of which her husband was at any [time] seized.

If deed or contract be made after marriage or during infancy of wife

SEC. 13. If any deed of conveyance, assurance, agreement or contract for jointure be made after marriage, or be made before marriage and during the infancy of the wife, in either case, the widow may, at her election, renounce her jointure and have dower.

If title to estate settled on wife shall fail.

In all cases, if the title to the estate settled on the wife as her jointure shall fail, or she be evicted from or cannot recover such estate, she shall have dower in the estate of her husband; or, if the title fail as to part only, the deficiency shall be made up of her husband's estate.

When deed or contract in lieu of dower shall fail to be legal.

SEC. 14. When any deed, conveyance, assurance, agreement or contract for jointure in lieu of dower shall, through any default, fail to be a legal bar to dower, and the widow, availing herself of such default, shall demand her dower, then the estate and the interest so conveyed to such widow shall cease and determine.

If wife leave husband and continue with adulterer

SEC. 15. If a wife voluntarily leave her husband and go away and continue with an adulterer; or, after being ravished, consent to the ravisher, she shall be forever barred from having her jointure or dower, unless her husband be voluntarily reconciled to her and suffer her to dwell with him.

Until dower be assigned, widow may remain in mansion, &c.

SEC. 16. Until dower be assigned, the widow may remain in and enjoy the mansion house of her husband, and the messuages

or plantation or plantations thereto belonging, without being liable to pay any rent for the same.

SEC. 17. When any widow shall be entitled to dower in real estate and she be deforced thereof, or cannot have it without suit, or, if her dower be unfairly assigned or not assigned within twelve months after the death of her husband, she may sue for and recover the same with damages : that is to say, the value of the whole dower to her belonging, from the time of her husband's death, (if he died or shall die seized,) or from the time of demanding dower, (if the husband was or shall be seized, but did not or shall not die seized,) unto the day that she shall recover her dower.

When widow entitled to dower and cannot get it without suit.

SEC. 18. Any widow may file a petition in the office of the clerk of the district or probate court of the county wherein the real estate, in which she claims her dower, is situate ; or, if the land is divided by county line, then in either county, against any person claiming an interest in such lands, or being in possession thereof, or who shall deforce her of her dower therein ; and the clerk shall thereupon issue a summons, indorsed or annexed to such petition, which shall be served as process in actions at law ; and, if the defendant appear and plead, the cause shall proceed according to the course of proceedings at law ; if any defendant shall not be summoned or shall not appear, the court shall award an order of publication, which shall notify such defendant that, unless he appear on the first day of the next succeeding term and proceed to trial, judgment will be rendered against him by default, which order shall be published in some newspaper, printed in this Territory, for two months before the term at which he shall be notified to appear ; and, when so published, shall be equivalent to the service of a summons.

Any widow may file petition against person claiming interest

If defendant appear.

If he does not appear.

SEC. 19. Where there are several defendants, some of whom are summoned to appear and others do not, the demandant may proceed against those summoned or appearing, without regard to the others, or may continue the cause and take out alias writs or make publication as aforesaid to bring in the other parties. Any person claiming title to the land whereof dower is claimed, may be made a defendant, if he appear and apply for the purpose ; and proceedings shall be had thereon, in all respects, as if he were originally a party duly summoned.

Where there are several defendants, only part of whom appear.

Any person claiming title may appear as defendant on application.

SEC. 20. If judgment be rendered by default, *nil dicit non sum informatus*, the court shall hear the proof and allegations of the demandant, or impanel a [jury] for that purpose ; and, if it be found, upon such proceedings or on the trial of the issues,

If judgment be rendered by default.

that the demandant is entitled to dower, the court or jury shall determine in what proportion, and the court shall thereupon render judgment that she be seized of her dower accordingly, for and during her natural life, and that she recover the damages that may be assessed, and thereupon shall appoint three competent persons, as commissioners, to assign and admeasure such dower, who, before they enter upon the discharge of their duties, shall take an oath or affirmation honestly and impartially to execute the trust reposed in them [respectfully] respectively.

A majority of commissioners shall ascertain and set off widows dower.

SEC. 21. The commissioners, or a majority of them, shall proceed to the land or other real estate, and, by actual admeasurement, ascertain and set off the widow's dower therein, according to the judgment of the court.

County surveyor to assist commissioners.

SEC. 22. The county surveyor of the county, if thereto required by the commissioners, shall make such survey and plats as the commissioners shall direct, and the commissioners shall make full report of their proceedings, with a plat and boundaries of the land so assigned by them as dower, to the court appointing them, at the next term thereof; which report, if approved, shall be recorded among the records of the court; but, if it shall not be approved, the commissioners shall again proceed as before directed, and, as often as may be necessary, until their report shall be approved; and such court may, at any time, discharge any commissioner and appoint others in their stead, and may supply any vacancy which may happen by death or resignation or refusal to act of any of the commissioners.

Commissioners to make report.

If not approved.

Court may appoint new commissioners, and fill vacancies.

When report approved.

SEC. 23. When any report assigning dower shall be approved, the court shall impanel a jury to assess the damages, and shall render judgment for the damages assessed, if the same have not before been done, and award a writ of possession, according to the report of the commissioners, and execution for damages.

When land not susceptible of division.

SEC. 24. If the commissioners shall report that the lands or other estate is not susceptible of a division, without great injury thereto, a jury shall be impaneled to inquire of the yearly value of the widow's dower therein, and shall assess the same accordingly.

Court shall render judgment that such sum be paid to the widow yearly.

SEC. 25. The court shall, thereupon, render judgment that there be paid to such widow, as an allowance in lieu of dower, on a day therein named, the sum so assessed as the yearly value of her dower, and the like sum on the same day every year thereafter, during her natural life; and such jury shall, moreover, if the same have not been done, assess the damages which may have accrued down to the time of rendering their verdict.

Jury arrears, damages before accrued.

SEC. 26. No writ of summons in dower shall abate by the exception of the tenant or defendant that the demandant hath received her dower of another before her writ was sued out, unless he can show that the dower so received was in satisfaction of her dower in the lands whereof she demands dower.

No writ of dower to abate by exception that demandant hath received her dower of another.

SEC. 27. When any widow shall be entitled to dower in lands or other real estate, whereof her husband died seized, it shall be lawful for any heir or legatee, or the guardians of such as are minors, entitled to any interest in such lands or real estate, or the executors or administrators of the intestate, or any creditor of the widow, or any other person having any interest in such lands or real estate, to apply, by petition, to the district or probate court of the county wherein the lands lie, to assign and admeasure such dower, giving twenty days' notice, in writing, of such intended application, to such widow, by a personal service or by leaving a copy at her usual place of abode.

When widow entitled to dower, other parties interested may petition court to assign such dower.

SEC. 28. Upon such application, with due proof of the service of such notice, the court shall appoint three commissioners to assign and admeasure such dower, who shall take the same oath and perform the like duties, and the court shall proceed in like manner therein as hereinbefore provided in like cases, where the widow demands dower. In proceedings under this section, there shall be no judgments for damages, and the costs and charges shall be divided and apportioned among the persons concerned, according to their respective interests in the lands and real estate out of which dower shall be assigned.

Upon application and proof of notice, commissioners appointed as before provided.

In such cases, no judgments for damages; and costs apportioned among all interested.

SEC. 29. When a widow, having no right to demand dower, sues out a writ of dower against the guardian of any minor, and the guardian endows the widow by favor, or makes default, or by collusion defends the plea faintly, whereby she is awarded her dower, to the prejudice of such minor, such minor, when he arrive at full age, shall have an action to demand seizin or to admeasure such dower according to law.

When widow obtains dower wrongfully from minor.

SEC. 30. Every person, who shall not have been made a party to any action and duly notified or summoned to appear, and shall not have appeared to any action brought by any widow for her dower, (except such as claim under any of the parties who have appeared or were summoned or notified by title derived after the commencement of such action,) shall have their action against such widow to admeasure the dower, and all other persons shall be concluded by the proceedings under the provisions of this act.

Any person interested not made a party, shall have action against such widow.

SEC. 31. When any person, not concluded as aforesaid, shall

When such person shall file his petition, proceedings.

file his petition in the office of the clerk of the district or probate courts of the county in which the lands or other real estate, in which dower has been assigned under the provisions of this act, are situate, stating that such widow was not entitled to dower in such lands or other real estate, or that her dower was unduly assigned, and claiming title to the lands so assigned or a part thereof, the clerk shall issue a summons thereon in the nature of a writ of admeasurement of dower, which shall be served on such widow as the like process in other cases at law ; and such widow may appear and deny the title of the demandant and put him upon the proof thereof, and may show her right of dower, and that it was properly and duly assigned, according to law, and may plead as many pleas as she may think proper, and have every defense which may be allowed by law in like cases, and proceedings shall be had as in ordinary cases at law.

If demandant hath not good title.

SEC. 32. If it be found that the demandant hath not good title to the premises, or that she is entitled to dower, and the same has been assigned according to her rights, she shall have judgment to retain her dower and to go quit of the said action ; but, if it shall be found that the demandant hath good title, and that such widow is not entitled to dower, he shall have judgment of seizin.

If proof of title in demandant, and dower unduly assigned, court may appoint commissioners as before provided.

SEC. 33. If, upon proof of title in the demandant, it appear that the widow is entitled to dower, but that the same has not been duly assigned, the court shall appoint commissioners, as in case of petition of the widow, who shall take an oath, and proceed in like manner, as hereinbefore provided in the assignment of dower.

Court to proceed as before provided.

SEC. 34. The court shall proceed upon their report in the same manner, and shall have the same power to supply vacancies and discharge commissioners and appoint others, as is provided in case of commissioners appointed to assign dower ; and, when the report is approved, shall award a writ of possession accordingly ; and all parties to any such action and those claiming under them shall be concluded thereby.

All parties concluded thereby.

When action brought by guardian, ward not bound thereby.

SEC. 35. When such action is brought by any guardian, his ward, when he becomes of age, shall not be bound thereby, if the judgment be obtained by collusion, but may have his action within three years after he comes of age ; and, in like manner, the widow shall be aided, if she be impleaded and loose her dower by default ; but she shall recover her dower, if she hath right thereto, as if no proceeding had ever been had.

SEC. 36. The charge of the commissioners for their services, not exceeding one dollar per day each, shall be taxed as other costs; and, when judgment shall be for the demandant, he or she shall have judgment to recover his or her costs; and, when the judgment shall be for the defendant, he shall recover his costs.

Compensation of commissioners, how paid

Party prevailing to have costs.

SEC. 37. In all cases of judgment for damages in favor of any widow, under the provisions of this act, execution thereof shall be awarded only against the estate in which dower shall be assigned

Execution issue only against estate in which dower assigned.

SEC. 38. When a writ of possession shall not have been awarded by reason that a division of the estate cannot be had, and a yearly allowance shall have been adjudged in lieu thereof, the court, when any such yearly allowance shall become due and be unpaid, shall award execution therefor in favor of such widow; or, if she die before the end of any year, then in favor of her executors or administrators, for all arrearages, and a just proportion of the last year's allowance, computing the time which had elapsed at the time of her death.

When yearly allowance of widow due, court may issue execution for amount.

If she die, in favor of her executors or administrators.

SEC. 39. No action, brought by any widow for the recovery of her dower, shall abate by the death of either party; but, if the demandant die, her husband, if she be married, or, if not, her executors or administrators, may appear and prosecute the action; but no admeasurement of dower or writ of possession shall, in such case, be awarded, but he or they shall have judgment and execution only for the damages occasioned by the deforcement.

No action shall abate by the death of either party.

Action how proceeded with.

SEC. 40. If she die before action brought, her executors and administrators may maintain an action, in which no admeasurement shall be made or writ of possession awarded; but, upon the issue found, the court or jury shall assess the damages according to this act; and, where one or more of the defendants die, the actions shall proceed against the survivors; and, if all the defendants die, the action may be renewed against the executors and administrators, as in other cases; but any other person claiming title to the land may be made a party by his voluntarily appearing to such action as a defendant.

If she die before action brought

If one or more defendants die.
If all defendants die.

Any person may appear as defendant.

SEC. 41. No [action] against any widow for admeasurement of dower shall abate by the death of the plaintiff or demandant, but his heir, legatee and the guardians of such as are minors, may appear and prosecute such action.

No action shall abate by death of plaintiff.

SEC. 42. If either party shall feel aggrieved by the final judgment of the court, he may have an appeal or prosecute a writ of

If either party aggrieved, appeal

error, in the same manner as in other actions at law ; but no appeal or writ of error shall operate as a supercedeas, unless the appellant or plaintiff in error shall enter into recognizance as required by law.

When judgment be in favor of widow, defendant shall become bound for damages, &c.

SEC. 43. When the judgment shall be that the widow be seized of her dower, the appellant shall become bound in such recognizance to pay not only all damages which have been adjudged, but all which may be adjudged to such widow in the action thereafter ; and, when any such judgment shall be affirmed, there shall be a writ to inquire of the mesne profit and damages by waste done after the first judgment.

Compensation of judges and clerks.

SEC. 44. The compensation of the judges of probate and clerks, aside from ordinary fees, shall be such as the board of county commissioners may determine and allow.

SEC. 45. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXIV.

AN ACT Relating to Executions returned "Not satisfied."

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Execution returned "not satisfied" for want of goods, &c., creditor may garnishee, how.

SECTION 1. When an execution shall have been placed in the hands of an officer for collection, and the same shall be returned not-satisfied for want of goods, chattels, lands and tenements sufficient to satisfy the same, if issued from a court of record ; or the same be returned for want of goods and chattels sufficient to satisfy the same, if issued by a justice of the peace, the judgment creditor may file an affidavit in the office of the clerk of such court, if the execution issue from a court of record, or with

the justice of the peace, if issued by a justice of the peace, setting forth that he has good cause to believe and does believe that the judgment debtor has debts owing him, (naming the person or persons owing him,) and that such clerk, or such justice, shall issue an order of garnishment, to be served as in cases of attachment, requiring such person to appear at the next term of the court, if issued from a court of record—if by a justice of the peace, before him, on a day to be named—to answer such questions as may be propounded him by the judgment creditor touching his indebtedness to such judgment debtor.

SEC. 2. That, if it shall be ascertained that such person or ^{Same.} persons garnished shall be indebted to the judgment debtor, the same proceedings shall be thereafter had as in like cases of garnishment in proceedings in attachment.

SEC. 3. That nothing in this act shall be construed to affect proceedings in aid of executions under the code of civil procedure. Not to conflict with Code of Civil Procedure.

SEC. 4. This act to be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 15, 1860.

S. MEDARY,
Governor.

CHAPTER LXV.

AN ACT to amend an Act entitled "An Act Exempting certain Property from sale upon Execution or other Process," approved February the 11th, A. D. 1859.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That section twelve of the provisions of an act Sec. 12 amended. entitled "An Act excepting certain property from sale upon Execution or other process," approved February the 7th, A. D. 1859, be so amended as to read as follows, viz: "The provisions of

this act shall apply to all legal process issued in pursuance of judgments obtained upon all contracts entered into both prior and subsequent to the taking effect of this act.

Sec. 12 repealed.

SEC. 2. That said section twelve of the act to which this is amendatory be and the same is hereby repealed.

SEC. 3. This act to take effect and be in force from and after the first day of May next.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXVI.

AN ACT Amendatory to an Act entitled "An Act to Exempt certain Property from sale upon Execution or other Processes."

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Sec. 12 repealed.

SECTION 1. That the twelfth section of the act to which this is amendatory is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXVII.

AN ACT regulating Fees of the Clerks of the several District Courts in this Territory, and for other purposes.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the following shall be the fees of the clerks of the several district courts in this Territory, to wit: Filing any paper, ten cents; docketing cause, twenty-five cents; issuing every original writ at law or in chancery, one dollar; entering appearance, each party, fifteen cents; entering every order, motion, rule, application, settlement, report, plea, issue, demurrer or other matter, of one folio or less, twenty-five cents; for each additional folio, fifteen cents; every entry on appearance docket, other than docketing cause and entering appearance, ten cents; every continuance, fifty cents; issuing subpoena or other mesne process, fifty cents; issuing commission to take deposition, seventy-five cents; entering judgment, retraxit, discontinuance, nil dicit, non sum informatus, by confession, default or of nonsuit, or upon issue joined of law or fact, or on report of arbitrators or referees, fifty cents; entering same on judgment docket, fifty cents; precept for jury, one dollar; swearing and impanneling jury, fifty cents; taking verdict, fifty cents; delivering copy of special jury to each party, fifty cents; trial by court or jury, fifty cents; entering appeal from inferior court, fifty cents; entering appeal to supreme court, fifty cents; taking recognizance on appeal, fifty cents; taking and filing affidavit on appeal, fifty cents; entering satisfaction of record, twenty-five cents; acknowledgment of sheriff['s] or marshal's deed, one dollar; taking acknowledgment of any other instrument, fifty cents; making any record necessary to be made, or copying the same or any other instrument, per folio, fifteen cents; swearing grand jury, seventy-five cents; entering interlocutory or final decree, one dollar and fifty cents; each entry on indexes, ten cents.

Fees of clerks of
District Court.

SEC. 2. All cost and fees in any civil action shall be deemed to be due as soon as the services are performed; and, if not paid within thirty days thereafter, a fee bill may issue against the plaintiff or defendant, accordingly as they are liable, on applica-

Due when service
performed.
If not paid, fee
bill issue

tion of any party interested in said cost, which said fee bill shall have all the force and effect and shall be issued and returnable in like manner as an execution

Plaintiff liable
for costs when
defendant fails to
pay same.

SEC. 3. The plaintiff in any civil action shall be liable, after final judgment, for all costs necessarily incurred in the prosecution of or defending the same; *Provided*, That, in all cases where judgment for cost is or has been rendered against the defendant, execution shall have first issued against said defendant and returned not satisfied before a fee bill shall issue against the plaintiff.

Sheriff collecting
to retain his own
fees and pay re-
mainder to clerk.

SEC. 4. It shall be the duty of the sheriff or other officer collecting moneys on execution or fee bill, in this Territory, after first retaining his fees, to pay the residue of the cost so collected to the clerk of the court from which the execution or fee bill issued, and take his receipt therefor.

Clerk to hold the
same subject to
the order of per-
sons entitled
thereto
If clerk refuse to
pay same, penalty

SEC. 5. It shall be the duty of the clerk receiving the cost, as provided for in section four of this act, to hold the same subject to the order of the persons entitled thereto. Any clerk refusing to pay the same to the person to whom it is due, may, by motion in said court, first giving three days' notice thereof, which may be served upon the clerk or his deputy, recover against the clerk double the amount of the cost to which he is entitled in the cause in which said clerk shall have refused to pay the same.

SEC. 6. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXVIII.

AN ACT Concerning a Line Fence.

Be it enacted by the Governor and Legislative Assembly of Kansas Territory :

SECTION 1. That where the lands of two persons join, and both parties shall occupy the land, that it shall be the duty of each party to build one half of the line fence Land joining. each owner to build half of the fence

SEC. 2. That where one party shall have already erected a fence upon any line between himself and any other party, and the other party wishes to occupy the land adjoining, it shall be his duty to either build one half of said fence, or pay the party owning said fence one half of its cash value. If fence already erected, joining party to pay one half of cash value

SEC. 3. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER LXIX.

AN ACT Legalizing Wire Fence.

Be it enacted by the Governor and the Legislative Assembly of the Territory of Kansas :

SECTION 1. That all fences composed of posts and wire, shall be at least four and a half feet high. The posts shall be of the ordinary size for fencing purposes, and set in the ground two feet deep, and not over nine feet apart, with holes through the posts, not over fifteen inches apart, to admit three separate strands of number nine fence wire, with rollers and levers, at What constitutes a legal wire fence

suitable distances, to strain and hold the wire straight and firm ; and such fence shall be deemed a lawful and sufficient inclosure.

Apply only to
certain counties.

SEC. 2. This act shall apply only to those counties and parts of counties included in the hog law, save Johnson county.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 24, 1860.

S. MEDARY,

Governor.

CHAPTER LXX.

AN ACT to Prevent the Firing of Woods, Marshes and Prairies.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Persons willfully
firing prairies,
&c., subject to
fine and impris-
onment.

SECTION 1. If any person shall willfully set on fire any woods, marshes or prairies, so as thereby to occasion any damage to any other person, such person shall, upon conviction thereof, pay a sum not exceeding five hundred dollars, nor less than fifty dollars, and be imprisoned in the county jail not more than six months, nor less than ten days ; one half of said fine shall go to the complainant, and the other half to the common school fund of the county in which the offense was committed ; and, in case of the neglect or refusal of any person so convicted to pay the fine above specified, he shall be, in addition to the imprisonment above imposed, confined in the county jail or Territorial prison, one day for every dollar thereof, until said fine be discharged.

If fine not paid.

Damage to other
person to be re-
covered in an
action

SEC. 2. If any person shall set on fire any woods, marshes or prairies, so as thereby to occasion any damage to any other person, such person shall make satisfaction for such damage to the party injured, to be recovered in an action.

May fire his own
farm in night
time.

SEC. 3. This act shall not extend to any person setting on fire, in the night time, anything on his own farm, as often as occa-

sion may require, if done without intention to set on fire the adjacent woods, marshes or prairies, not occupied by such person.

SEC. 4. Nothing herein contained shall be so construed as to prevent any person from firing against fire, so as to protect his or her property from being destroyed. May fire again. fire.

SEC. 5. It shall be the duty of all sheriffs, justices of the peace, constables and other sworn officers, to use all necessary means to convey information to the proper authorities of any violation of this act. Sheriff and other sworn officers to convey information of violation of this act to proper authorities.

SEC. 6. All other acts conflicting with this act is [are] hereby repealed. Acts repealed.

SEC. 7. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 16, 1869.

S. MEDARY,
Governor.

CHAPTER LXXI.

AN ACT for the Relief of the Heirs of Jesse W. Clark.

WHEREAS, There is not, nor has there been, for a long time past, any court in the county of Nemaha, in the Territory of Kansas, having any jurisdiction over the estates of deceased persons, and the custody of the persons and property of minor children in said county; and,

WHEREAS, One Jesse W. Clark, lately deceased in said county, was the father of the following children, then living in said county, to wit: Penace Angelina Clark, Jannettah Ann Clark, Andrew Jackson Clark, John Allen Clark, William Edgar Clark, Francis Marion Clark, all minors and heirs of the said Jesse W. Clark; and,

WHEREAS, The said heirs, as aforesaid, have had interest as such heirs in the following quarter section of land in said county,

to wit: The north-east quarter of section thirteen, in township number four, of range fourteen; and,

WHEREAS, The said heirs have no other estate for their support, nor any person for their guardian, and there being no court to provide for the sale of such real estate for the maintenance of such minor heirs, nor for the custody of their persons and estate; therefore,

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

John R. Fletcher
appointed guardian.

SECTION 1. That John R. Fletcher is hereby constituted the guardian of the estate, real and personal, of the minor heirs in the preamble aforesaid, and as such, may have custody of their persons and estate.

Guardian authorized to sell real estate above mentioned.

SEC. 2. That the said John R. Fletcher, as such guardian as aforesaid, is hereby empowered and authorized to sell or dispose of the real estate, mentioned in the preamble aforesaid, for the benefit of the said minor heirs, in any manner he may deem most advisable.

Before performing duties, to give bond.

SEC. 3. That said guardian shall, before availing himself of the provisions of this act, execute a good and sufficient bond, to be approved by the judge of the first district court, in such penal sum as the judge may think proper, of the same tenor and conditions as is required by law for guardians for the possession of persons and property.

SEC. 4. This act to take effect from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 25, 1860.

S. MEDARY,

Governor.

CHAPTER LXXII.

AN ACT Supplemental to "An Act Regulating Inclosures," approved February 11th, 1859.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That all fences composed of stone, shall be four feet high, and at least eighteen inches wide at the bottom, and twelve inches or more at the top, and that all such fences are hereby declared legal inclosures. What constitutes legal stone fence.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 2, 1860.

S. MEDARY,
Governor.

CHAPTER LXXIII.

AN ACT to Restrain Intercourse with the Indians.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That, if any person shall sell, exchange, give, barter or dispose of any spirituous liquors or wine to any Indian within this Territory, under any circumstances, unless directed by a physician for medical purposes, such person, upon conviction thereof, upon indictment, shall be punished by fine of not less than five nor more than five hundred dollars, or imprisoned for not less than one month nor more than six months in the county jail. Selling liquors to Indians, penalty.

SEC. 2. It shall be the duty of each court having criminal jurisdiction, to give this act in charge specially to the grand jury at each term. Courts to charge grand jury on this point.

Indians competent witnesses.

SEC. 3. Upon any trial under this act, Indians shall be deemed competent witnesses.

This act not to apply to citizen Indians.

SEC. 4. This act shall not apply to persons selling liquor to Indians who are citizens of the United States or of the Territory of Kansas.

SEC. 5. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER LXXIV.

AN ACT Making Citizens of certain Indians in Kansas Territory.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Indians receiving patents for lands declared citizens.

PROVISO.

Such Indians may sue and be sued.

SECTION 1. That all Indians in Kansas Territory, to whom lands have been set apart in severalty, or by families, and who shall receive patents therefor from the United States, are hereby declared to be and [are] made citizens of the Territory of Kansas ; *Provided*, That nothing herein contained shall be so construed as to confer the right of suffrage on any Indian.

SEC. 2. That the Indians referred to in section one of this act are hereby authorized and allowed to sue and be sued, defend and be defended, in all courts of law or equity in this Territory.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 23, 1860.

S. MEDARY,
Governor.

CHAPTER LXXV.

AN ACT Regulating the Interest of Money.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. Creditors shall be allowed to receive interest at the rate of ten per cent. per annum, when no other rate of interest is agreed upon, for all moneys after they become due by any instrument of the debtor in writing; for money lent or money due on settlement of accounts, from the day of liquidating the same and ascertaining the balance; for money received for the use of another and retained without the owner's knowledge of the receipt; for money due and withheld by an unreasonable and vexatious delay of payment or settlement of accounts, and for all other money due or to become due, for the forbearance of payment whereof an express promise to pay interest has been made.

Creditors allowed ten per cent. on all moneys, when no other rate agreed upon.

SEC. 2. The parties to any bond, bill, promissory note or other instrument of writing for the payment or forbearance of money, may stipulate therein for interest receivable upon the amount of such bond, bill, note or other instrument at any rate not exceeding twenty per cent. per annum; *Provided, however,* That no incorporated banking institution of this Territory shall be entitled to receive more than the rate of interest specified in its charter, or, if no rate be specified, more than six per cent. per annum upon any loan or discount whatsoever.

Parties may stipulate for interest at the rate of twenty per cent.

Proviso.

SEC. 3. All payments of money or property made by way of usurious interest, or of inducement to contract for more than twenty per cent. per annum, whether made in advance or not, shall be deemed and taken to be payments made on account of the principal; and the courts shall render judgment for no greater sum than the balance found due after deducting the payments of money or property made as aforesaid, without interest; nor shall any debtor be deemed a *particeps criminis*, on account of having paid or having agreed to pay such usurious interest or such inducement, but shall have like remedy and relief in either case.

Payments of usurious interest deemed payment of principal.

SEC. 4. When any part of that which purports to be the principal in any note, bond, bill of exchange or other evidence of

Interest added to principal to evade law may be recovered by law.

indebtedness has been added by way of usurious interest, and with the intent to evade the provisions of this act, the amount of such usurious interest incorporated into the principal may, in such cases, after payment, be recovered back by action in any court of competent jurisdiction, against the party originally exacting the usurious interest or against any subsequent purchaser with notice of the usury.

Notes, bonds, &c.,
purchased for less
than face, only
the sum paid re-
covered.

SEC. 5. If any person purchase any note, bond, bill of exchange or other evidence of indebtedness for less than the face of it, knowing the same to have been issued for the purpose of raising money upon it, or with intent to evade the provisions of this act, such person shall not be entitled to recover on such instrument more than the sum paid for the same, without interest.

Contract for ille-
gal interest, in-
terest forfeited.

SEC. 6. Any person contracting, by promissory note, bill of exchange, bond or otherwise, to receive a greater rate of interest than that allowed by this act, shall forfeit all interest, and shall recover in action no more than the principal of such note, bill, bond or other contract.

Judgments of
courts bear in-
terest from their
date.

SEC. 7. All judgments of courts of record and justices of the peace shall bear interest from the day on which they are rendered, at the rate of ten per cent. per annum.

Acts repealed.

SEC. 8. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 9. This act shall take effect and be in force from and after the first day of April, 1860.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 16, 1860.

S. MEDARY,

Governor.

CHAPTER LXXVI.

AN ACT to Prevent and Punish Armed Invasions from or into this Territory.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. If any person or persons, resident of this Territory, shall hereafter aid or assist, engage in, co-operate or participate with any military or armed company or companies, and shall go to or cross the boundary line of any sister States or Territory, with intent to do or commit any act or acts, in violation of the laws of such State or Territory ; and, if any person or persons, resident of any other State or Territory, shall hereafter aid or assist, engage in, co-operate or participate with any military or armed company or companies, and shall cross the boundary line, and come into this Territory, with intent to do or commit any act or acts, in violation of the laws of this Territory, every such person so offending shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by confinement and hard labor for a term of not less than two nor more than ten years.

Persons engaging
in invasions from
or into Territory
guilty of felony.

Punishment

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXXVII.

AN ACT to Amend an Act entitled "An Act Defining the Judicial Districts of the Territory, and Fixing the Times and Places of Holding Courts therein," approved 11th February, 1859.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Certain Indian reservations attached to second judicial district.

SECTION 1. That all territory within the respective boundaries of the Ottawa, Chippewa and Sac and Fox reserves, in said Territory, and that all Indian reservations, and so much thereof as lies within the defined limits of Jefferson county, and, also, that all that portion of the Pottawatamie and other Indian reservations within the defined limits of Jackson county, be and the same is hereby attached to the second judicial district of said Territory.

Jurisdiction extended over reservations.

SEC. 2. That the jurisdiction of the district court of the United States, within and for the second judicial district of said Territory be and the same is hereby extended over said Indian reservations, or so much thereof as [is] mentioned and included within the next preceding section of this act ; and that all prosecutions now pending for violations of the laws of the United States, within the Indian reservations, and so much thereof as before-mentioned, be transferred to the United States district court within and for the second judicial district aforesaid, together with a transcript of the proceedings therein had.

Cases now pending transferred to said court

Acts repealed

SEC. 3. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

SEC. 4. This act to take effect from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXXVIII.

AN ACT to Define the Judicial Districts of the Territory and fix the Times and Places for Holding the several Courts therein.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. The counties of Leavenworth, Atchison, Doniphan, Jefferson, Wyandott and Arrapahoe shall constitute the first judicial district, and the Hon. John Pettit, chief justice of Kansas Territory, is assigned thereto. First judicial district.

SEC. 2. The counties of Douglas, Shawnee, Osage, Coffey, Woodson, Greenwood, Wilson, Godfrey, Breckinridge, Madison, Butler, Hunter, Otoe, Marion, Chase, Morris, Peketon, Saline, Davis, Dickinson, Clay, Riley, Pottawatamie, Wabaunsee, Nemaha, Brown, Marshall, Washington and Jackson shall constitute the second judicial district, and the Hon. Rush Elmore, associate justice of the supreme court, is assigned thereto. Second district

SEC. 3. The counties of Johnson, Lykins, Linn, Bourbon, Cherokee, Dorn, Allen, Anderson and Franklin shall constitute the third judicial district, and the Hon. Joseph Williams, associate justice of the supreme court is assigned thereto. Third district.

SEC. 4. For judicial purposes, the county of Osage is attached to the county of Shawnee; the counties of Woodson, Wilson, Greenwood and Godfrey to the county of Coffey; the county of Nemaha to the county of Brown; the counties of Madison, Butler, Hunter and Otoe to the county of Breckinridge; the counties of Chase, Marion, Peketon and Saline to the county of Morris; the counties of Dickinson, Clay, Pottawatamie, Wabaunsee and Riley to the county of Davis; the county of Washington to the county of Marshall; the county of Cherokee to the county of Bourbon; the county of Dorn to the county of Allen, and the county of Arrapahoe to the county of Leavenworth; except that in the county of Arrapahoe the process of subpoena issuing from Leavenworth county shall have no force or effect if served in said Arrapahoe county. Counties united for judicial purposes

SEC. 5. The district courts for the first judicial district shall commence in each year as follows: In the county of Leaven- Exception Times of holding court in first district.

worth, on the second Monday of March, August and November, for the year eighteen hundred and sixty, and thereafter on the first Monday in March, August and November; in the county of Doniphan, on the first Monday in May and October; in the county of Atchison, on the second Monday of May and October; in the county of Jefferson, on the third Monday in May and October; in the county of Wyandott, on the fourth Monday of May and October.

Same, in second district.

SEC. 6. The district courts in the second judicial district shall commence, in each year, as follows: In the county of Coffey, on the second Monday of March and September; in the county of Erikinridge, on the third Monday of March and September; in the county of Morris, on the fourth Monday of March and September; in the county of Davis, on the first Monday after the fourth Monday of March and September; in the county of Marshall, on the second Monday after the fourth Monday of March and September; in the county of Brown, on the third Monday after the fourth Monday of March and September; in the county of Jackson, on the fourth Monday after the fourth Monday in March and September; in the county of Shawnee, on the fifth Monday after the fourth Monday in March and September; in the county of Douglas, on the seventh Monday after the fourth Monday in March and September.

Same, in third district.

SEC. 7. The district court in the third judicial district shall commence as follows: In the county of Franklin, on the last Monday in March and August; in the county of Anderson, on the first Monday in April and September; in the county of Allen, on the second Monday in April and September; in the county of Bourbon, on the third Monday in April and September; in the county of Linn, on the fourth Monday in April and September; in the county of Johnson, on the second Monday after the fourth Monday in April and September; in the county of Lykins, on the first Monday after the fourth Monday in April and September.

Judges may hold special or adjourned terms

SEC. 8. The judges of the several district courts shall have power to hold such special and adjourned terms in any county in their respective districts, whenever they may deem it necessary.

Jurisdiction over counties attached

SEC. 9. Where a county is attached to another for judicial purposes, the jurisdiction of the county to which it is attached shall be the same as if it formed part thereof, unless the county attached has an organization and officers of its own; and, in that case, the jurisdiction of the county to which it is attached shall only extend to such matters as are cognizable by the district court.

SEC. 10. The whole of the Delaware Indian reservation is hereby attached to the first judicial district for judicial purposes, as well as all the Indian Territory lying and being within the boundary of Arrapahoe county.

Delaware and Indian territory in Arrapahoe county attached to first district.

SEC. 11. For judicial purposes, the Pottawatamie, Kaw, Otoe, Chippewa and Ottawa, and Sac and Fox and Kickapoo Indian reservations are attached to the second judicial district, and the New York Indian reservation is attached to the third judicial district.

Other reserves attached to second district

Third district.

SEC. 12. The several terms of the district courts shall be held at the county seats of the several counties in which courts are established by this act.

Courts held at county seats.

SEC. 13. The causes arising upon Indian reservations, now pending in the several district courts, shall be transferred to the federal court to which jurisdiction, by this act, attaches said reservation, on or before the next term of said court to which said cause is transferable; and causes now pending in the district courts of the counties hereby attached to other counties shall be, by the clerks of said courts, transferred to the counties to which they are respectively attached, together with all the books and papers relating thereto.

Causes arising on reserves, now pending, transferred same as reservations.

Same, in regard to counties.

SEC. 14. All acts and parts of acts in conflict with this act are repealed.

Acts repealed.

SEC. 15. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER LXXIX.

AN ACT entitled "An Act to amend an Act entitled 'An Act Regulating the Jurisdiction and Procedure before a Justice of the Peace, and the Duties of Constables in Civil Cases.'"

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Stock or interest
owned by defend-
ant may be levied
upon

Earnings of debt-
or when liable.

Change of venue
when and how.

SECTION 1. Stock or interest owned by the defendant in any company, and, also, debts due him and property of his in the hands of third persons may be levied upon in the manner provided for attaching the same, and the proceeding by garnishment shall be the same as nearly as practicable; but the earnings of the debtor for his personal services, at any time within three months next preceding the issuing of the execution, cannot be so applied, when it is made to appear, by the debtor's affidavit or otherwise, that such earnings are necessary for the maintenance of a family supported wholly or partly by his labor.

SEC. 2. When, upon the return of process or at any time before the trial shall have been commenced, either party shall file, with the justice of the peace before whom any cause is instituted or trial is pending, an affidavit stating that he cannot, as he verily believes, have a fair and impartial trial before such justice, on account of bias or prejudice of the said justice against the said affiant, the trial of the case shall be changed to the next nearest justice of the peace, and the case shall be proceeded with as now provided by law.

SEC. 3. This act to be in full force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXXX.

AN ACT to Amend an Act entitled "An Act to Define the Duties of Justices of Peace in Cases of Breach of Peace," approved February 10, 1859.

SECTION 1. Any constable, charged with the collection of fines under the provisions of the act to which this is an amendment, shall return the execution to the justice, within thirty days from its date, and pay over to the justice the money collected thereon.

Constable to return execution and money collected within thirty days.

SEC. 2. All fines imposed and collected by any justice, under the provisions of this act or the act to which this is an amendment, shall be paid by him to the treasurer of the county where the offense was committed, for the use of such county, within thirty days after the same shall have been collected; and the justice shall take duplicate certificates therefor, one of which he shall deposit with the county clerk.

Justice pay all fines he collects to county treasurer, taking receipts for same.

SEC. 3. If any justice shall fail to pay over such moneys as aforesaid, it shall be the duty of the treasurer of the proper county to prosecute such delinquent justice for the recovery of the same, together with the penalty of ten per centum thereon, in an action of debt, before any court having jurisdiction thereof.

If justice fails to pay over.

SEC. 4. Section twenty-three of an act entitled "An Act to Define the Duties of Justices of the Peace in Cases of Breach of the Peace," is hereby repealed.

Section twenty-three repealed.

SEC. 5. That this act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXXXI.

AN ACT Providing for a Justice of the Peace in and for the City of Ogden.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Authorized to
elect justice.

Jurisdiction.

SECTION 1. That the city of Ogden is hereby authorized to elect a justice of the peace in and for said city, who shall have jurisdiction in all matters of a civil or criminal nature, where the amount in controversy does not exceed one hundred dollars, or the imprisonment more than five days, which jurisdiction shall extend to all matters arising under and by virtue of any law or ordinance of the city ; and said justice shall, also, have the same jurisdiction over matters arising under the laws of the Territory or State, as may be, as other justices of the peace in the same county ; and his jurisdiction, when trying causes under the laws of the Territory, shall be co-extensive with the township in which said city is situated.

Elected by people
and commissioned
by Governor.

SEC. 2. Said justice shall be nominated and elected by the people of the township and commissioned by the Governor.

Laws giving ju-
dicial jurisdic-
tion to mayor
repealed.

SEC. 3. All laws giving jurisdiction of a judicial character to the mayor of said city is [are] hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXXXII.

AN ACT to Create the Office of Justice of the Peace in the City of Junction, and to Provide for the Election of a Justice.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That the office of justice of the peace is hereby Office of Justice established. established in the city of Junction, county of Davis and Territory of Kansas.

SEC. 2. That there shall be held, in said city, agreeably to the provisions of the charter of said city, as far as practicable, an election, on the first Monday in March, eighteen hundred and sixty, and every two years thereafter, for the election of one justice of the peace, whose term of office shall expire at the end of two years from date of his election, whose jurisdiction shall be co-extensive with other justices of the peace within the said county of Davis. Election for Justice.

SEC. 3. That the mayor of said city shall appoint three judges Mayor appoint judges. of said elections, whose duty it shall be to receive and count the votes polled at said election, and shall make out returns and transmit the same to the Governor of the Territory of Kansas, and the person receiving the highest number of votes at said election shall be commissioned as other justices of the peace.

SEC. 4. That, to be eligible to the said office of justice of the peace, the person must have the qualifications of an elector under the charter of said city of Junction, and the qualifications of voters at said elections shall be the same as is required in the charter for other elections in said city. Persons eligible.

SEC. 5. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER LXXXIII.

AN ACT Legalizing the Acts of George Smith, Justice of the Peace of Franklin Township, Jackson County, Kansas Territory.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Certain acts of George Smith legalized.

SECTION 1. That all the acts of George Smith, a justice of the peace of Franklin township, Jackson county, Kansas Territory, performed in the capacity of a justice of the peace, are hereby legalized, from the twenty-fourth day of May, A. D. 1858, (the day on which said justice was sworn into office,) to the third day of July, A. D. 1858, (the day on which said justice gave his official bond,) *Provided*, Said acts would have been legal if his official bond had been filed according to law.

Provide.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February —, 1860.

S. MEDARY,

Governor.

CHAPTER LXXXIV.

AN ACT to Legalize the Acts of Frederick M. Stumbo, Acting Justice of the Peace in the Township of Blue Rapids, Marshall County, K. T.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Certain acts of Fred M. Stumbo legalized.

SECTION 1. That all the acts done by Frederick M. Stumbo, as acting justice of the peace, otherwise legal, in the township of Blue Rapids, in Marshall county, Kansas Territory, previous to the passage of this act, are hereby legalized and declared of the same force and effect, in all cases whatsoever, as if the said

Stumbo had fully complied with all the provisions of the law respecting the taking of the oath of office and filing of bonds in the case of justices of the peace.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 15, 1860.

S. MEDARY,
Governor.

CHAPTER LXXXV.

AN ACT to Establish a Legal Method by which to Sub-divide a Section of Land, as surveyed by the United States Surveyors, into quarter sections.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That, in the sub-division of sections of land, as surveyed by the United States surveyors, into quarter sections, the following method shall be followed, to wit: The surveyor shall proceed to connect the points of position of the monuments marked one-quarter S., commonly known as quarter corner monuments, which are upon opposite sides of the section, by tracing a straight line from one to the other; he shall then ascertain the point of intersection of the two straight lines above mentioned, and the said point of intersection shall be the point of position of the corner, common to the four quarters of the section subdivided.

Method of subdividing land.

SEC. 2. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 15, 1860.

S. MEDARY, *Governor.*

CHAPTER LXXXVI.

AN ACT to Prohibit the Recording of Deeds and other Instruments in the Land District Recorders' Offices in Kansas Territory.

Be it enacted by the Governor and Legislative Assembly of Kansas Territory :

No instrument of any validity unless recorded with the county register.

SECTION 1. That, from and after the passage of this act, no instrument of writing affecting real estate shall be of any validity against subsequent purchases for a valuable consideration unless recorded in the office of the register of deeds of the county in which the land lies or may be situated.

Acts repealed.

SEC. 2. All laws or parts of laws in conflict with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 2, 1860.

S. MEDARY,
Governor.

CHAPTER LXXXVII.

AN ACT Relating to Land Titles in the City of Lawrence, Douglas County.

WHEREAS, William H. R. Lykins, of the said city of Lawrence, did, by his certain deed, in writing, bearing date May, the eighteenth, A. D. one thousand eight hundred and fifty-five, convey to Samuel S. Snyder, Joel Grover, John A. Wood, George W. Hutchinson and the said William H. R. Lykins, a certain tract of land therein described, being a portion of the town site of the said city of Lawrence, upon which the said Lykins had theretofore located the reservation, consisting of one section, or six hundred and forty acres of land, reserved by the treaty between the United States and the Wyandott Nation of Indians, of

the — day of March A. D. 1842, to Robert Robittaile, upon land owned by the United States, in trust, to convey the same to certain persons therein named; and,

WHEREAS, The said tract of land has been surveyed into lots and streets, and a plan or chart of the same has been executed by A. D. Searl, of said city of Lawrence; and,

WHEREAS, The said trustees have conveyed in quit claim, to the said persons, severally, the lots and lands which are in said deed provided to be conveyed to them by the said trustees; and,

WHEREAS, Certain of said lots have been conveyed through many intermediate purchasers to the present owners, of which conveyances a record has been kept by E. D. Ladd, of said city of Lawrence, in books kept for such purpose; and,

WHEREAS, Said books have been legalized by act of the Legislature, and all transfers of said lots required to be recorded in said books; and,

WHEREAS, Owing to peculiar circumstances, a very large number of the deeds or instruments in writing, purporting to convey or affect such lots, are insufficient in law as conveyances, and assure to the grantees therein only equitable titles, by reason that they were not acknowledged or proved according to law, and for other defects; and,

WHEREAS, The said William H. R. Lykins did, also, in said deed, covenant, when the patent for the said section or six hundred and forty acres of land should issue to the party thereto entitled, to make further and better assurance thereof, in fee simple, to the said trustees, to execute the trusts thereof as aforesaid; and,

WHEREAS, The said trustees in said deed, also, covenant to execute such further and better assurance, in fee simple; and,

WHEREAS, The United States have issued their patent, upon which said reservation has been located, and the said trustees are now enabled to convey a good and sufficient title, in fee simple, to the lots and lands conveyed by said patent; therefore,

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. All instruments, in writing, executed by the parties thereto, purporting to convey or affect any real estate situate within the limits of the said city of Lawrence, and recorded in the said books of record of said E. D. Ladd, register of deeds of said city, are declared to have the same force, value, validity and effect, as conveyances, as if the same had been acknowledged or proved according to law.

Certain instruments legalized.

Trustees to execute to owners deeds.

SEC. 2. The before named trustees, Joel Grover, John P. Wood, Samuel S. Snyder, George W. Hutchinson and William H. R. Lykins and their successors, in the execution of their said trust, are required, as soon as may be, to execute, to the owners of all lots or tracts of land conveyed [covered] by the said patent, deeds in fee simple thereto, [therefor,] with a covenant of special warranty against the acts of said trustees, grantors; and the said books of record of the said E. D. Ladd, and the deeds and instruments recorded therein shall be evidence of such ownership; and the said trustees shall convey said lots to the parties severally, who shall appear by such records to be the owners thereof, unless restrained by authority of law. The said E. D. Ladd is required to make out and deliver to any person requiring the same, a certified abstract of the title of any of said lots, as said title may appear by said books of record, for which, for each of said lots, he shall be entitled to receive such sum as shall be allowed by the council of the said city of Lawrence.

Evidences of ownership.

Register to certify to ownership.

Acts repealed.

SEC. 3. All acts and parts of acts inconsistent with the provisions of this [act] are hereby repealed.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER LXXXVIII.

AN ACT to Create a Lien in Favor of Mechanics and Others.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Persons performing labor, &c., have lien on property.

SECTION 1. That any person who shall perform labor, or furnish materials or machinery for constructing, altering or repairing any boat, water craft, or for erecting or repairing any house, mill, manufactory or other building or appurtenance, by virtue of any contract or agreement with the owner thereof, shall have

a lien, to secure the payment of the same, upon such boat, vessel or other water craft, and upon such house, mill, manufactory, or other building or appurtenance, and the lot of land upon which the same shall stand.

SEC. 2. That every mechanic, artisan or other person, doing or performing any work toward the erection or repair of any house, mill, manufactory, or other building or appurtenance, or the construction, alteration or repair of any boat, vessel or any other water craft, erected under a contract or agreement between the person who shall furnish material for the construction of such building or vessel, whose demands for work so done or material so furnished have not been paid and satisfied, may deliver to the owner of such building or vessel an attested amount [account] of the amount and value of the work and labor thus performed, or the materials thus furnished, and remaining unpaid; and therefor such owner shall return [retain] out of his subsequent payments to the contractor, the amount of such work and labor or materials furnished, for the benefit of the person so performing or furnishing the same.

If not paid, to deliver account to owner, who shall retain amount from payments due contractor.

SEC. 3. Whenever any account of labor performed or materials furnished, as referred to in the preceding section, shall be placed in the hands of the owner of any building or vessel, as above stated, or his authorized agent, it shall be the duty of such owner or agent to furnish his contractor with a copy of such papers, so that, if there be any disagreement between such contractor and his creditor, they may amicably adjust or by arbitration ascertain the true sum due; and, if the contractor shall not, within ten days after the receipt of such papers, give the owner written notice that he intends to dispute the claim; or if, in ten days after giving such notice, he shall refuse or neglect to have the matter adjusted as aforesaid, he shall be considered as assenting to the demand, and the owner shall pay the sum when it becomes due.

Owner to furnish contractor with copy of account.

If claim not disputed or not adjusted.

SEC. 4. That, if the contractor shall dispute the claim of his journeyman or other person, for work done or material furnished as aforesaid, and the matter cannot be adjusted between themselves, it shall be submitted to the arbitrament of three disinterested persons, one to be chosen by each of the parties, and one by the two thus chosen; and their decision, or the decision of any two of them, shall be conclusive in the case submitted.

If claim disputed.

SEC. 5. That, when the account shall be adjusted as above provided, and the contractor shall not, within ten days after it is so adjusted, pay the same to his creditor, with the costs incurred, the owner shall pay the same out of the funds, as above provided;

When account adjusted, owner responsible to extent of sum due contractor.

and which amount due may be recovered from the said owner, by the creditor of the said contractor, and to the extent in value of any balance due by the owner to his contractor, under the contracts with him, at the time of the notice first given as aforesaid, or subsequently accruing to such contractor, under the same, if such amount shall be less than the sum due from said contractor to his auditor [creditor.]

In any case owner liable to extent of pay contractor at time he received account.

SEC. 6. That if, by collusion or otherwise, the owner of any building or vessel, erected by contract as aforesaid, shall pay to his contractor any money in advance of the sum due on said contract; and, if the amount still due the contractor after such payment has been made, shall be insufficient to satisfy the demand made in conformity with the provisions of this act, for labor done and materials furnished, the owner shall be liable to the amount that would have been due at the time of his recovering [receiving] the account of such work or materials, in the same manner as if no such payment had been made.

Creditor to make itemized account and file the same with county register, which shall operate as a lien.

SEC. 7. That any person, entitled to a lien under this act, shall make out an account in writing of the items of labor, skill, materials and machinery furnished, or either of them, as the case may be; and, after making oath that, [thereto,] within four months from the time of performing such labor and skill, or furnishing such material and machinery, shall file the same in the office of the register of deeds of the county in which such labor, skill and materials shall have been furnished, which account, so made and filed, shall be recorded in a separate book, to be provided by the register for that purpose, and shall, from the commencement of such labor, or the furnishing of such material, operate as a lien on the several descriptions of structures and buildings and the lots on which they stand, in the first section of this act named. When any labor has been done or materials furnished, as provided on a written contract, the same or a copy thereof shall be filed with the account herein required.

Lien holder may proceed to judgment as in like cases.

Lien to continue until suit determined.

SEC. 8. That any person or persons holding such lien may proceed to obtain a judgment for the amount of his or their account thereon, according to the course of legal proceedings in like cases; and, when any suit or suits shall be commenced on such accounts, within the time of such lien, a lien shall continue until such suits be finally determined and satisfied.

If building suspended, mechanics may proceed with it how far.

SEC. 9. That, when the owner or owners of any house or building described in the first section of this act shall suspend its progress or completion, without the consent of such laborers, mechanics or furnishers, or if the completion of the same be sus-

pended by the decease of the owner or owners, at a stage when, from its unfinished state, such structure would go to waste, the laborers, mechanics and furnishers thereto, or any of them, may, at their discretion, proceed with the same at their own costs, so far as to inclose such building, and thereby prevent such waste ; *Provided*, The work so done, after such suspension, shall be according to the contract and plan of the owner or owners.

Proviso.

SEC. 10. That, if the person or persons who may erect, as owner or owners, any building described in the first section of this act, be not, at the suspension or completion of the same, possessed of the legal but equitable title to the ground on which the same is erected, (if the same be a fixture,) and the fact of such defect of title be made to appear to the court before whom any judgment or judgments, under this act, may have been obtained, or if the same be returned by any legal officer, to whom any execution under this act shall be described, [directed,] in either case, the court may direct the officer who has returned, or who is authorized by leave [law] to serve such execution, to rent or lease such building or buildings, until the rents and issues thereof shall pay and satisfy the several liens on which judgments may be had against the same ; or, in case a sale of the premises can be made, so as to benefit all parties interested, the court may, in a proper case, all parties interested being before the court, order a sale and adjust the liens and rights of all parties, so that the rights of all parties shall be protected and secured ; *Provided*, This law shall not be so construed as to impair the bona fide liens on grounds on which such building or buildings shall be erected, (if a fixture.)

If owner of building not legal owner of ground, court may direct leasing of building.

All parties being satisfied sale may be ordered.

Proviso.

SEC. 11. That, in all other cases of judgment or judgments obtained in favor of any lien holder or holders, if the property bound by such lien will not sell on execution, as provided by law in other cases, having been once duly offered, the court before whom such judgment or judgments may be obtained may direct the officer aforesaid to lease the same in the manner and for the purpose pointed out in the preceding section ; and the officer giving such lease or leases shall then require the payment to be made to him or his successors in office, which successor or successors shall have the same power and perform the same duties therein as the maker of the lease or leases should or could do ; and, in cases where the money may be collected by said officer, on lease or leases made under this act, it shall be his duty forthwith to pay the same into court when [where] the judgment or judgments were obtained, which money shall be distributed to the

If property will not sell on execution, to be leased.

Officer to collect money on leases, and pay same into court.

Distributed to
lien holders.

several lien holders interested in said judgments, in proportion to their several demands.

Liens discharged
on payment of
debt and costs.

SEC. 12. That all lien or liens may be discharged by the payment of judgment or debt, with all legal costs, before the property on which such lien or liens attach be sold or leased, under this act; and, if any lien holder or holders, after the same be duly tendered to him or them, shall proceed at law or shall refuse to give a due discharge from such lien, then such lien holder or holders shall forfeit all liens and pay all costs.

Money tendered
and refused, cred-
itor to forfeit all
liens.

If owner non-
resident.

SEC. 13. That, if the owner or owners of, or any person interested in the property which is subject to a lien, under this act, be without the reach of process, or reside without the Territory, any lien holder or holders may make said parties defendants or parties to any suit, under the provisions of this act, by publication of notice, as provided by law in other cases, or may proceed by attachment; as in other cases; and the court before whom the same is pending, on the entry of judgment or return of the proper officer, shall have the same power to order a lease or leases or a sale as is given in the tenth and eleventh sections of this act.

Court may order
as in other cases.

Executors and ad-
ministrators have
same rights as
testators or inter-
states.

SEC. 14. That executors and administrators, under this act, shall have the same rights and be subject to the same liabilities that their testator or intestate would or might have, if living.

Register's fees.

SEC. 15. That the register of deeds, for filing and recording contracts and accounts under this act, shall be paid the same pay that they are legally entitled to in other cases.

Lien holder to
certify to dis-
charge of debt,
when.

SEC. 16 Each and every person in favor of whom any such lien has existed, after receiving satisfaction of his or their debt, or after final judgment against him or them by a competent tribunal, showing that nothing is due by reason of such claim, shall at the request of any person interested in the property on which the same was a lien, or who is interested in having the lien removed, or if his or their legal representatives lodge a certificate with said recorder that said debt is satisfied and said lien removed, with [which] certificate shall be filed and recorded by the register of deeds, or [on] the margin of the record, in the same manner that releasing [releases] of mortgages are now by law required to be recorded; and, when so recorded, shall forever discharge and release said lien; and, if such person or persons, having received such satisfaction as aforesaid, by himself or attorney, or judgment having been rendered him as aforesaid, shall not, within ten days after request, in writing, lodge a notice, in writing, with the register of deeds, as is prescribed in this section, he or they neglecting or refusing so to do shall for-

not done when
requested.

penalty.

feit and pay, to [the] party or parties so aggrieved, any sum of money, not exceeding one-half of the debt claimed as a lien on such property, according to the circumstances of the case, to be recovered in a civil action, as in other cases at law; and the party lodging such certificate as aforesaid shall pay to the recorder ten cents for recording each notice or certificate as aforesaid.

SEC. 17. That the first to the twenty-third sections of an act entitled "An Act for securing Liens to Mechanics and others," passed February 5, 1859, be and the same is hereby repealed; Sections of former act repealed.
Provided, That all suits commenced and rights accrued, under said act, are hereby saved, and the same shall be prosecuted to final judgment, the same as if this act had not been passed. Proviso.

SEC. 18. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
 W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER LXXXIX.

AN ACT for the Benefit of Livery Stable Keepers.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That all keepers of livery stables shall have a lien upon all stock fed or stalled by them, until the expenses of keeping the same are paid, except wherein special contracts are made and entered into by and between the parties. Stable keepers have lien on stock fed or stalled by them.

SEC. 2. This act to be in full force and effect from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
 W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY, *Governor*

CHAPTER XC.

AN ACT to amend an Act entitled "An Act to Protect the Rights of Married Women, and in relation to the Liabilities incident to the Married Relation."

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

May sue and be
sued same as if
single.

SECTION 1. That section third of the act to which this is an amendment shall be amended so as to read as follows: "Sec. 3. Any woman may, while married, sue and be sued in all matters having relation to her property, person or reputation, in the same manner as if she were sole."

SEC. 2. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 18, 1860.
S. MEDARY,
Governor.

CHAPTER XCI.

AN ACT to Legalize certain Acts of Erastus W. Stratton.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Official acts of
Erastus W. Stratton
legalized.

SECTION 1. That all the official acts of Erastus W. Stratton, while acting as notary public in and for the county of Leavenworth, in said Territory, from the nineteenth day of July, eighteen hundred and fifty-eight, to the sixteenth day of May, eighteen hundred and fifty-nine, be and the same are hereby legalized.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.
S. MEDARY, *Governor.*

CHAPTER XCII.

AN ACT to Provide for the Partition of Real Estate.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That all joint tenants, tenants in common and copartners [coparceners] of any estate in lands, tenements and hereditaments, within this Territory, may be compelled to make or suffer partition of such estate or estates, in manner hereinafter prescribed ; and, where such estate or estates are situated in one county, the proceedings under this act shall be had in the district court in such county ; and, when situate in two or more counties, the proceedings under this act may be had in the district court in any county in which a part of such premises shall be situate, at the election of the demandant of partition.

Joint tenants, &c, may be compelled to make or suffer partition.

Proceedings had in what court.

SEC. 2. That any person or persons entitled to partition of his, her or their estate or estates, under this act, may file his, her or their petition in the district court, praying that partition of such estate or estates may be made, which petition shall set forth the nature of the title of the demandant, the tract or tracts of land, the tenements or hereditaments of which partition is demanded, and, also, the name or names and place of residence of each joint tenant, coparcener or tenant in common, with such demandant, if they shall be known to such demandant ; and if, on examination, it shall appear to the court that the demandant hath a legal right to any part of such estate or estates, the court shall proceed, in the term in which such petition may be filed, to order a partition to be made in the manner prescribed by the provisions of this act.

Persons entitled to partition to file petition in district court.

If such person has legal right to any part of estate, court shall order partition.

SEC. 3. That the demandant in any petition shall give notice, in some newspaper in general circulation in each county where the land lies, or shall give personal notice, in writing, to each and every person concerned, their agent or attorney, at least forty days previously to the term of the court next after the filing his petition, setting forth the pendency and demand thereof.

Demandant to give notice to persons interested how.

SEC. 4. That, whenever it shall appear to the court that due notice hath been given as aforesaid, and no sufficient reason shall appear why partition should not be made, the court shall proceed to order the partition in favor of such demandant or all parties in interest, and shall issue their writ, directed to the sheriff of their county ; or, in case the estate or estates of which partition is

When such notice has been given, court may order partition how.

sought, shall be situate in more than one county, then to the sheriff of either of the counties in which the estate or estates may be, commanding him, that, by the oaths of three judicious and disinterested freeholders of the vicinity, to be named by said court, he cause to be set off and divided to the demandant, or each party in interest in said petition, such part and proportion of such estate or estates as the court shall have ordered.

Freeholders to examine such estate and make partition.

SEC. 5. That, in making such partition, it shall be the duty of said freeholders to view and examine such estate or estates, and, on their several oaths or affirmations, set apart the same in such lot or lots as will be most advantageous and equitable, having due regard to the improvement, situation and quality of the different parts of such estate or estates.

When partition of more than one tract is demanded

SEC. 6. That, when partition of more than one tract is demanded in the same petition, said freeholders shall set off to each of the petitioners or parties in interest, his proper proportion in each of the several tracts of which partition is demanded, unless the several tracts of which partition is demanded shall be owned by the same proprietors in the same proportion in each tract, in which case the whole share of any proprietor in and to all the several tracts may be set off to such proprietor according to the best discretion of said freeholders.

Persons of whom partition is demanded may appear and consent to partition before writ issues.

SEC. 7. That before a writ shall have issued to the sheriff, the person or persons of whom partition is demanded shall have the right of appearing in court, in person or by attorney, and of consenting to a partition of such estate or estates, agreeably to the prayer and facts set forth in the petition, which amicable partition, made and recorded, shall be valid between the parties thereto.

When partition cannot be made without injury of value.

SEC. 8. That, when any writ of partition shall issue as aforesaid, if the freeholders, who are directed to make such partition, shall be of opinion that the estate or estates cannot be divided according to the demand of the writ without a manifest injury of the value thereof, the said freeholders shall then make and return to the court a just valuation of such estate or estates, whereupon, if said court shall approve of the said return, and, if any one or more of the parties shall elect to take the said estate or estates at such appraised value, the same shall be adjudged to him, her or them, he, she or they paying to the other party or parties, his, her or their proportion of the appraised value thereof, according to his, her or their respective rights; and, on payment being made, the sheriff shall, according to the order of the court

Sheriff to make conveyance.

aforesaid, make and execute conveyances to the party or parties electing to take the same.

SEC. 9. That, in case the parties shall not agree, as provided in the preceding section, and no one or more of them will take the said estate or estates on the terms aforesaid, then the said court may, at the instance of the demandant in the petition, make an order for the sale of said estate or estates, at public auction, by the sheriff who shall have executed the writ hereinbefore provided, or his successor in office; and it shall be the duty of the sheriff executing said writ to sell the same at the door of the court house, unless the court, for good cause, shall direct the same to be sold on the premises; in which case they shall be sold on the premises, agreeably to such direction; which sale shall be made and conducted by such sheriff, in all respects, as is or may be provided for the sale of real estate upon execution, except that it shall not be necessary to appraise said estate or estates previous to such sale; but said estate or estates shall not be struck off or sold by such sheriff for less than two-thirds of the appraised value thereof returned by the freeholders.

In case parties cannot agree, estate to be sold at auction.

Estate not to be sold for less than two-thirds of its appraised value

SEC. 10. That the sheriff or other officer directed by the court of any county within this Territory to make partition of lands and tenements, in pursuance to the provisions of this act, is hereby authorized to administer the necessary oath to the freeholders summoned by him for that purpose.

Sheriff to administer oath to freeholders.

SEC. 11. That on return of the sheriff of his proceedings, the same shall be subject to the examination of the court; and, if sale has been made and the same is appraised [approved] by the court, the sheriff, on receiving payment of the consideration money, or taking sufficient security therefor to the satisfaction of the court, shall execute and deliver a deed or deeds to the purchaser or purchasers of the estate or estates so sold; and the said money or securities shall be distributed and paid, by order of said court, to and amongst the several parties entitled to receive the same, in lieu of their respective parts and proportions of said estate or estates, according to their just rights and proportions.

If sale approved by the court, sheriff to execute deed.

Money received to be distributed among parties entitled thereto.

SEC. 12. That, after such estate or estates shall have been once offered and not sold, an alias order may issue for the sale thereof, as often as need be; and it shall be competent for the court who shall have ordered such sale, at their discretion, to order a revaluation thereof, by three judicious, disinterested freeholders of the county, to be appointed by the court, and to direct a subsequent sale thereof at not less than two-thirds of such revalua-

If sale not made, alias order may issue, and revaluation may be ordered

tion; or, if said court think it more expedient for the interest of all parties concerned, they may order a sale without such revaluation, at not less than such reduced proportion or proportions of the appraised value, as said court may direct.

Payments for estate how made.

SEC. 13. That, in all sales made by the sheriff pursuant to an order in case of partition, unless the court shall, by special order, direct and require, on good cause shown, the sale to be made for cash down, the purchase money shall be payable, one-third on the day of sale, one-third in one year, and one-third in two years thereafter, with interest; the deferred payments to be secured to the parties, agreeably to the respective interests, according to the eleventh section of the provisions of this act.

Guardians of minors may do what.

SEC. 14. That the guardian or guardians of any minor heir of heirs shall be empowered, on behalf of their ward or wards, to do and perform any act, matter or thing respecting the partition of any estate or estates under this act, and to elect, on behalf of such ward or wards, to take said estate or estates, when the same cannot be divided without injury, as mentioned in the eighth section of this act, and make payments therefor on behalf of said ward or wards; and such acts and things, done by said guardian or guardians, shall be as valid in law as if the same had been done by such ward or wards, after his, her or their arrival at full age.

Acts legalized

Privileges of parceners.

SEC. 15. That one parcener may maintain an action against another, but no parcener shall have or possess any privileges over another, in any election, division, partition or matter to be made or done concerning lands which have descended.

Costs taxed according to equity.

SEC. 16. That the court, before whom any partition shall be made, shall tax the costs and expenses which may accrue in the cause, according to equity, having regard to the interest of the parties, and the benefit each may derive from such partition, and shall issue execution therefor against each party, if need be, his, her or their goods, chattels, lands and tenements, as in other cases.

SEC. 17. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 23, 1860.

S. MEDARY,

Governor.

CHAPTER XCIII.

AN ACT to Facilitate the Settlement of the Estates of Deceased Partners.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That any company or association of individuals, heretofore formed or hereafter to be formed, not incorporated, who do or shall hold any right, title or interest, legal or equitable, in or to any land in this Territory, devoted, by the mutual agreement of the persons forming such company or association, to division and sale as town or city lots, blocks or shares, for the profit of such company, or the several members thereof, shall be deemed, as to such property, a copartnership.

Association of individuals deemed copartnership when.

SEC. 2. In case of the death of any one or more of the members of such copartnership, whether such death shall have heretofore taken place or shall hereafter take place, such lands, whether the legal title thereof be in such company or association or any of them, or held in trust for them, or in whatsoever manner or in whose name soever such legal title is or shall be held, shall be deemed assets of such copartnership, and the survivor or survivors shall have the right to sell and dispose of the same pursuant to such agreement, and to collect the dues, pay the debts and close up all the business of such copartnership, in like manner and with like effect as if the property of said copartnership were personal property only; and shall account to and with the administrator or administrators, executor or executors of such deceased partner or partners, and pay to him or them such balance or balances as would have been due to such deceased partner or partners on such accounting, had he or they been living.

In case of death of any of said partners.

SEC. 3. The heir or heirs at law of every such deceased partner shall fulfil the agreement of his or their ancestor, so devoting such land to division and sale, by joining with the surviving partner or partners or with the trustee or trustees, if any, holding the title, or with both such survivors and trustees, as may be necessary, in executing, acknowledging and delivering all deeds of conveyance necessary to convey to the purchasers of such lots, blocks or shares the parcels so purchased by them respectively, whether the agreements with such purchasers to sell the same were made by the copartnership during the lifetime of the

Heirs shall fulfil agreement of ancestor.

said ancestor, or by the surviving partner or partners, after his death, and whether the same were made before or since the passage of this act.

Heirs shall join in filing plat, which shall be of same force as if done by deceased partner.

SEC. 4. If no map or plat of such land have been made and acknowledged by such deceased partner or partners, agreeably to the provisions of an act entitled "An Act concerning the Plats of Cities and Towns," passed February 11, A. D. 1859, such heir or heirs shall join with such surviving partner or partners in so acknowledging and filing such plat; and such acknowledgment shall have the same force and effect as if done by such deceased partner in his lifetime; *Provided*, That such heir shall be required to pay no part of the expense of preparing such deeds or plats or of the officer's fees for taking the acknowledgments thereof. If such heir or heirs shall refuse or neglect so to execute, acknowledge and deliver such deeds or plat, the district court, in an action duly prosecuted in the proper county, by such surviving partner or partners, against such heir or heirs, shall compel the execution, acknowledgment and delivery thereof.

Proviso.

Heirs may be compelled by court to execute plat.

If, in action against minor heirs, it appears that decedents agreed to division and sale, &c., court shall render judgment that surviving partners may sell and convey such property.

SEC. 5. In case of the death of any such partner or partners, leaving a minor heir or heirs, the surviving partner or partners may commence an action in the district court in the county where such land or the greater part thereof is situate, against such minor heir or heirs, and may join all the minor heirs of all such deceased persons partners in one action; and, if it shall be made to appear to the court that the plaintiff and said decedent or decedents, in his or their lifetime, by their mutual agreement, devoted such land or any part thereof to division and sale as town or city lots, blocks or shares, for the profit of the said plaintiff and said decedent or decedents; that said decedent or decedents died without having executed the conveyances necessary to convey his or their interest therein to the several purchasers of such lots, blocks or shares, and that the defendant or defendants is or are the minor heir or heirs of such decedent; and it not appearing that such mutual agreement was abrogated or annulled during the lifetime of such decedent or decedents, such court shall render a judgment, adjudging that such defendants are minor heirs at law of such decedent or decedents, stating the time of the death of such decedent or decedents, and adjudging that the plaintiff or plaintiffs is or are surviving partner or partners of such decedent or decedents, and held said land as such, within the true intent and meaning of this act, and, as such, are entitled to sell and convey all the right, title and interest, legal and equitable, of the defendants therein. Such judgment shall

describe the lands adjudged to be conveyed, and, thereafter, the deed of such plaintiffs, as surviving partners and of the trustee or trustees, if any, holding the title purporting to convey all the right, title and interest of the said minor heirs, or the right, title and interest of the deceased partner or partners, at the time of his or their death or deaths, shall be sufficient to convey to the purchaser all the right, title and interest, at law and in equity, of said minor heir or heirs therein. Such judgment may be recorded by the register of the county where the lands lie, as deeds are recorded, and with the same force and effect.

Judgment may be recorded with same force as deeds.

SEC. 6. In case such surviving partner or partners, after the death of such deceased partner or partners and before the rendition of such judgment, shall have conveyed, as such surviving partner or partners, together with such trustee or trustees, if any, any such lots, blocks or shares to purchasers by deeds, purporting, on their face, to convey the right, title and interest of the surviving partner or partners, and that of the deceased partner or partners at the time of his or their death, or of such minor heirs, from and after the rendition of such judgment, such deeds shall be as effectual to convey all such right, title and interest, at law and in equity, of such minor heir or heirs, party or parties to said action, as if the same had been made, executed and delivered after the rendition of such judgment; and all such right, title and interest, passed by such deeds, shall relate to and be deemed to have passed at the times such deeds were so executed and delivered.

In case conveyances made before such judgment.

SEC. 7. If such deceased partner or partners, leaving such minor heir or heirs, shall not have acknowledged a map or plat of such lands, as aforesaid, the surviving partner or partners may, at any time hereafter, acknowledge such map or plat as such surviving partner or partners, and cause the same to be filed and recorded according to law; and such acknowledgment, filing and recording, with the acknowledgment of such heirs of full age, if any, shall have the same force and effect as if the same had been done by all the partners in the life time of said deceased partner and before any such land had been sold by such partners.

If deceased partners have not acknowledged map or plat.

SEC. 8. If the mutual agreement, mentioned in section one of this act, be not in writing, but the parties thereto have caused the land so agreed to be divided and sold to be mapped or platted, and have sold or contracted with purchasers to sell all or any portion of said land, in lots or blocks described upon said map or plat, such agreement is, by such part performance, rendered valid and effectual in equity as to all the land so platted,

If agreements be partly performed, may be legally enforced after death of partner.

and may be enforced pursuant to the provisions of this act or otherwise, as if the same were in writing.

Surviving partners to give bonds for faithful accounting to executors, &c.

SEC. 9. Before any such surviving partner or partners shall be entitled to demand of the heirs at law of such deceased partner conveyances, pursuant to section three of this act, or to commence an action against such minor heirs, pursuant to section five thereof, he or one of them shall give to the executor or executors, administrator or administrators, if any, of such deceased partner, a bond in such sum and with such surety as the probate judge of the county where such lands or the greater part thereof are situate, shall, in writing thereon, approve as sufficient, conditional that, after settlement of the partnership business and payment of the partnership debts, and final accounting with all surviving partners and all executors and administrators of deceased partners, he will pay to such executor or executors, administrator or administrators, such sums as may be found due from him, the said principal obligor, to him or them the said obligee or obligees; and, if there be several of such surviving partners, each of them severally shall give a like bond, to be approved as aforesaid, or, in default thereof, such as do give such bond shall have the sole control of the assets of such copartnership, and, until a final accounting, be alone entitled to receive any portion of the avails of the sale of said lands.

If any do not give bond.

District court to have same power as if assets were personal property

SEC. 10. The several district courts shall have the same power to compel the settlement of the affairs of such copartnership and to protect and enforce the rights of all persons interested therein, as if the assets of such copartnership were personal property only.

When persons shall have mutually agreed to lay off land, &c. and one or more have received conveyances, the remainder may enforce such partners to make conveyance

SEC. 11. When two or more persons shall have mutually agreed to lay off certain lands in city or town lots or blocks, and to distribute such lots or blocks among themselves, and have caused such lands to be surveyed into such lots or blocks, and a map or plat thereof to be made pursuant to such agreement, and have agreed to determine the several lots or blocks to belong to each by lot or chance, or in any other specified manner, and have proceeded accordingly and so determined the several lots or blocks to belong to each in severalty, and one or more such persons, pursuant to such agreement and determination, shall have received a conveyance or conveyances of their lots or blocks, so determined to belong to him or them or any part thereof, and all others of said persons, not having received such conveyances, shall be able and willing to fulfil such agreements by making the necessary conveyances, although none of such agreements shall

have been in writing, and whether the same were made before or after the passage of this act, they shall be as against such as have received such conveyance or conveyances valid in equity; and upon action duly brought, the specific performance thereof, by making all conveyances necessary to fulfil and carry into effect such agreements and determination, shall be adjudged and enforced.

SEC. 12. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 24, 1860.

S. MEDARY,

Governor.

CHAPTER XCIV.

AN ACT for the Formation of Limited Partnerships.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. Limited partnerships for the transaction of any mercantile, mechanical or manufacturing business, within this Territory, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter provided; but nothing in this chapter contained shall be construed to authorize any such partnership for the purpose of banking or insurances.

Partnerships may be formed for certain purposes only.

SEC. 2. Limited partnerships may consist of one or more persons, who shall be called general partners, and who shall be jointly and severally responsible as general partners now are by law, and of one or more persons who shall contribute a specific amount of capital, in cash or other property, at cash value, to the common stock, who shall be called special partners, and who shall not be liable for the debts of the partnership beyond the amount of the fund so contributed by them respectively to the capital, except as hereinafter provided.

Responsibility of general and special partners.

General partners
only transact
business.

SEC. 3. The general partners, only shall be authorized to transact business, to sign for the partnership and to bind the same.

Persons forming
partnership shall
make and sign
certificate.

SEC. 4. The persons desirous of forming such partnership shall make and severally sign a certificate, which shall contain: First, The name or firm under which the partnership business is to be conducted. Second, The general nature of the business to be transacted. Third, The names of all the general and special partners interested therein, distinguishing which are general partners and which are special partners, and their respective places of residence. Fourth, The amount of the capital stock which each special partner shall have contributed to the common stock. Fifth, The period at which the partnership is to commence, and the period when it will terminate.

Certificate shall
be acknowledged
before proper offi-
cer.

SEC. 5. Such certificate shall be acknowledged by the several persons signing the same, before some officer authorized by law to take the acknowledgment of deeds, and such acknowledgment shall be made and certified in the manner provided by law for the acknowledgment of deeds for the conveyance of land.

Certificate filed
with county clerk

SEC. 6. The certificate, so acknowledged and certified, shall be filed in the office of the county clerk of the county in which the principal place of business of the partnership shall be situated, and shall be recorded at length by the clerk in a book to be kept by him; and such book shall be subject, at all reasonable hours, to the inspection of all persons.

If business car-
ried on in differ-
ent counties.

SEC. 7. If the partnership shall have places of business situated in different counties, a transcript of such certificate, and of the acknowledgment thereof, duly signed by the clerk in whose office it shall have been filed, under his official seal, shall be filed and recorded, in like manner, in the office of the clerk of every such county; and the books containing such records shall be subject to inspection in like manner above directed.

Affidavit filed of
amount of money
or property con-
tributed.

SEC. 8. At the time of filing the original certificate and the acknowledgment thereof, as before directed, an affidavit of one or more of the general partners shall, also, be filed in the same office, stating the amount of money or other property, at cash value, specified in the certificate to have been contributed by each of the special partners to the common stock, has been actually and in good faith contributed and applied to the same.

No partnership
formed until re-
quirements com-
plied with
If false statement
made.

SEC. 9. No such partnership shall be deemed to have been formed until such certificate, acknowledgment and affidavit shall have been filed as above directed; and, if any false statement be made in such certificate or affidavit, all the persons interested in

such partnership shall be liable for all the engagements thereof as general partners.

SEC. 10. The partners shall publish the terms of the partnership, when recorded, for at least four weeks, immediately after the recording thereof, in two newspapers, to be designated by the clerk of the county in which such record shall be made; and, if such publication be not made, the partnership shall be deemed general.

Terms of partnership to be published

SEC. 11. Affidavits of the publication of such notices, by the printers of the newspapers in which the same have been published, or some one in their employ knowing of such publication, may be filed with the clerk directing the same, and shall be evidence of the facts therein contained.

Affidavits of printers evidence of publication.

SEC. 12. Upon the renewal or continuance of a limited partnership beyond the time originally agreed upon for its duration, a certificate shall be made, acknowledged, recorded and published, in the like manner as is provided in this chapter for the formation of limited partnerships; and the affidavit of one or more of the general partners, as above provided, shall, also, be filed with the proper county clerk as aforesaid; and every such partnership, so continued, which shall not be renewed or continued in conformity with the provisions of this section, shall be deemed a general partnership.

Upon renewal or continuance of partnership, like proceedings had.

SEC. 13. Every alteration which shall be made in the names of the partners, the nature of the business, in the capital, or in the shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of such limited partnership; and every such partnership which shall in any way be carried on after such alteration shall have been made shall be deemed a general partnership, unless renewed as a special partnership, according to the provisions of the last preceding section.

Alteration made in partnership makes it general unless renewed.

SEC. 14. The business of the partnership shall be carried on under a firm, in which the names of the general partners only shall be inserted, without the addition of the word "Company" or any other general term; and, if the name of any special partner shall be used in said firm, with his consent or privity, or, if he shall personally make any contract respecting the concerns of the partnership, with any person except the general partners, he shall be deemed and treated as a general partner.

Business carried on under firm.

If special partner appears, he shall be deemed general.

SEC. 15. During the continuance of the partnership under the provisions of this chapter, no part of the capital stock thereof shall be withdrawn, nor any division of interest or profits be made, so as to reduce said capital stock below the sum stated in

No capital withdrawn during partnership so as to reduce below certificate.

If assets not sufficient to meet debts, special partners responsible to what extent.

the certificate above mentioned; and if, at any time during the continuance, or at the termination of the partnership, the property or assets shall not be sufficient to pay the partnership debts, then the special partners shall severally be held responsible for all sums by them received, withdrawn or divided, with interest thereon from the time when they were so withdrawn or divided respectively.

No general assignment valid, unless certain provision made.

SEC. 16. No general assignment by such partnership of its property or effects, in case of insolvency, or where their goods and estates are insufficient for the payment of all their debts, shall be valid, unless it shall provide for the distribution of all the partnership property and effects among all the creditors, in proportion to the amount of their several claims.

In case of assignment, assent of creditors presumed unless they object.

SEC. 17. In case of an assignment, as provided for in the last preceding section, the assent of the creditors shall be presumed, unless they shall, within sixty days after notice thereof, dissent, either expressly or by some act clearly implying such dissent; and no such assignment shall be valid, unless notice thereof shall be published in some newspaper printed in the county where the place of business of the parties making it is situated; or, if no newspaper be printed in such county, then in some newspaper printed in an adjoining county, or at the seat of government, within fourteen days after making such assignment.

Notice must be given of such assignment.

All suits by and against general partners except when.

SEC. 18. All suits respecting the business of such partnership shall be prosecuted by and against the general partners only, except in those cases in which provision is made in this chapter that the special partners shall be deemed general partners, and that special partnerships shall be deemed general partnerships, in which cases all the partners, deemed general partners, may join or be joined in such suits; and excepting, also, those cases where special partners shall be held severally responsible on account of any sums by them received or withdrawn from the common stock, as above provided.

No dissolution to take place until time specified in certificate, unless notice recorded and published.

SEC. 19. No dissolution of a limited partnership shall take place, except by operation of law, before the time specified in the certificate before mentioned, unless a notice of such dissolution shall be recorded in the registry in which such certificate, or the certificate of renewal or continuance of the partnership, was recorded, and in every other registry where a copy of such certificate was recorded; and, unless such notice shall, also, be published four weeks, successively, in some newspaper printed in the county where the certificate of the formation of such partnership was recorded; or, if no newspaper shall, at the time of such dis-

solution, be printed in such county, then in some newspaper printed at the seat of government.

SEC. 20. In all cases, not otherwise provided for in this chapter, the members of limited partnerships shall be subject to all the liabilities and entitled to all the rights of general partners.

In cases not provided for in this act, members have same rights and liabilities.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER XCV.

AN ACT to Establish a County Poor House in Leavenworth County and to Provide for the Maintenance of the same.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That the tribunal transacting county business in and for the county of Leavenworth, be and is hereby authorized to erect and establish a poor house within the limits of said county, whenever, in their opinion, such a measure shall be proper and advantageous ; and, for that purpose, it shall be lawful for said tribunal to purchase a lot or tract of land, not exceeding one hundred and sixty acres, which said tract of land shall not be less than five miles from the outside limits of said Leavenworth city.

Tribunal authorized to erect and establish poor house where.

SEC. 2. That said tribunal shall have power to issue and sell the bonds of said county to an amount not exceeding ten thousand dollars, for the purpose of paying for the land purchased and the cost of erecting suitable buildings and furnishing the same ; said bonds to bear a rate of interest not exceeding ten per cent. per annum, and payable in not less than fifteen years nor more than twenty years from their date ; and said tribunal shall cause to be levied and collected, with the other taxes of the county, a sum sufficient to provide for the payment of the interest on such bonds as the same becomes due ; and, also, cause to be levied and collected

May issue bonds to pay for land and building, subject to certain conditions.

a tax, as aforesaid, sufficient to provide a sinking fund for the final extinguishment of the bonds, which said taxes, when paid into the county treasurer, shall be and remain a specific fund for such purposes only, and shall not be appropriated or used in any other way; and said taxes shall be paid in money.

When building completed, tribunal to appoint superintendent—his duties.

SEC. 3. That, whenever said tribunal shall have completed a poor house for the reception of the poor, they shall, as soon as may be, take such steps as they shall deem necessary for the good management of such poor house. They shall appoint a superintendent of said poor house, who shall reside therein, and who shall receive such compensation for his services, perform such duties and give such security for their faithful performance, as the county tribunal shall deem proper. He shall be governed, in all respects, by the rules and regulations of said tribunal, and may be removed by them at pleasure. He shall require all persons received into the poor house as paupers to perform such reasonable labor as may be suited to their ages and bodily strength, the proceeds whereof shall be appropriated to the use of the institution, in such manner as may be indicated by the county tribunal. The superintendent shall receive into the poor house any person who shall produce to him such an order or voucher as is hereinafter required.

Committee to visit poor house monthly.

SEC. 4. That a committee from the tribunal transacting county business shall visit the poor house once during every month, which committee shall examine the condition of the paupers, the manner in which they are fed, clothed and otherwise provided for. They shall ascertain what work they are required to perform, and shall inspect the books and accounts of the superintendent and make report thereof at the next meeting of the county tribunal.

Tribunal to make annual report

SEC. 5. That said tribunal shall make an annual report, and publish the same, of the condition of the said poor house, exhibiting the receipts and expenditures of the same, and all facts connected with the institution which may be of public interest.

Tax levied and collected for support of institution.

SEC. 6. That the tribunal aforesaid shall cause to be levied and collected a tax, not to exceed two mills on the dollar, for the purpose of supporting and defraying the expenses of said institution, and, also, paying the expense of removing paupers to said poor house, which tax shall be levied at the same time that the other county taxes are levied; and said tax shall be collected in money and be and remain a specific fund for such purposes only, and shall not be appropriated or used in any other way.

Tribunal may bind and apprentice poor children

SEC. 7. That the said tribunal shall have power to bind and apprentice all such poor children as belong to said poor house—

males to the age of eighteen years, females to the age of sixteen [years,] in accordance to the laws regulating the binding of apprentices.

SEC. 8. That no person shall be admitted to said poor house as a pauper, unless on the order of some justice of the peace of the proper township, which order shall be accompanied by a statement of facts setting forth the age, name, birth place, length of residence, present condition and previous occupation of the person claiming to be a pauper, which order shall be signed by the justice and directed to the "Superintendent of the Poor House," which order and statement of facts shall be recorded by the superintendent in a book to be kept for that purpose.

Persons how admitted.

SEC. 9. That whenever any person shall be received into said poor house as a pauper, the tribunal aforesaid may, at their discretion, dismiss such person, or direct the superintendent to do so, or they may confer discretionary power on the superintendent to act as he may deem for the best interests of the institution.

Persons how dismissed.

SEC. 10. That all property, real and personal, all rights in action or equitable interests which may belong to any person admitted as a pauper into said poor house, shall be taken possession of and sold by the tribunal aforesaid, and the proceeds thereof, or so much as may be necessary, applied to the payment of the expenses of said pauper while in said poor house; and, when said pauper shall be discharged, if there be any balance of the proceeds of the pauper [property] as aforesaid, it shall be paid to him by said county tribunal.

Property of pauper shall be sold to pay expenses, &c.

SEC. 11. That the directors may, at their option, admit or reject any person as a pauper who has not gained a residence in said county, such as is hereinafter provided for, as the nature of the case and a sound discretion may require.

Persons not properly residents of county may be admitted or not.

SEC. 12. That the tribunal transacting county business shall employ a physician, in good standing, and shall pay him such reasonable compensation as they shall deem for the best interests of the county and the institution, whose duty it shall be to attend all patients who may be in said poor house.

Physician to be employed

SEC. 13. That, if any poor person shall become a county charge and be received into said poor house, before such person shall have resided in Leavenworth county six months next preceding his reception, the cost of keeping said pauper shall be charged to and collected from the county in which said pauper last had a residence, for the whole time said pauper shall remain

If non-resident become county charge, expense to be paid by county of his last residence.

in said poor house, and shall be collected as other debts are collected.

"Six months residence" to apply only to paupers.

SEC. 14. That six months' residence in Leavenworth county shall be and is hereby construed to mean a residence in said county when applied to paupers; but it shall not affect the residence for any other purpose.

Acts repealed.

SEC. 15. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

SEC. 16. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 23, 1860.

S. MEDARY,
Governor.

CHAPTER XCVI.

AN ACT to Establish Prison Bounds.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas: -

Bounds of jail limited only by boundaries of Territory.

SECTION 1. The prison bounds of any county jail in this Territory shall be co-extensive with and limited only by the boundaries of the Territory of Kansas.

Any person imprisoned under provisions of certain act, entitled to benefits of this act.

SEC. 2. Any person who is now or who may hereafter be imprisoned under the provisions of chapter three, entitled "Executions against the Person;" of title fourteen, entitled "Executions;" of an act entitled "An Act to establish a Code of Civil Procedure," approved February 11, 1859, shall be entitled to the benefits of this act.

Persons imprisoned shall give bond conditioned that he will remain within bounds

SEC. 3. Every person who is now or who may hereafter be imprisoned as stated in the last section of this act shall, prior to taking the benefit of this act, give bonds in double the amount, payable to the plaintiff in execution, of the sum stated in the execution, to be approved by the sheriff, conditioned that he will

remain within prison bounds until discharged from such execution according to law ; and, in default thereof, shall be committed to the county jail.

SEC. 4. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved January 31, 1860.

S. MEDARY,
Governor.

CHAPTER XCVII.

AN ACT Relating to the Commitment of Prisoners.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. When any person is committed to jail by a justice of the peace or judge or other magistrate, such justice or other magistrate may, if there be no jail in the county, commit such person to the nearest safe jail in any county of this Territory. Justice may commit person to nearest safe jail in any county.

SEC. 2. All acts or parts of acts conflicting with the provisions of this act are hereby repealed. Acts repealed.

SEC. 3. This act to take effect from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 24, 1860.

S. MEDARY,
Governor.

CHAPTER XCVIII.

AN ACT to Establish and Define the Jurisdiction of Probate Courts in Leavenworth and other Counties.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Probate court established in certain counties.

SECTION 1. That there be and is hereby established, in Leavenworth, Doniphan, Brown, Nemaha, Arrapahoe, Morris, Chase, Butler and Peketon counties respectively, a probate court, and that the probate judge, heretofore elected according to law, shall be the judge of said court.

Probate judge before elected act.

Made a court of record, and have seal.

SEC. 2. That the probate court shall be, for all purposes, a court of record, and shall have a seal, with a proper device and inscription.

Have concurrent jurisdiction with district court in certain actions.

SEC. 3. The probate court shall have concurrent jurisdiction with the district court in all actions against heirs, devisees, administrators, guardians, executors and sureties of executors, administrators and guardians, and in all matters relating thereto; and in the appointment of commissioners to carry out any contract in relation to real property, made by any decedent, and to make any and all awards in relation thereto which may be authorized by law.

Same.

SEC. 4. The probate court shall have concurrent jurisdiction with the district court in all actions upon bonds, notes or bills of exchange, or other liquidated demands for the payment of money or property, when the amount claimed, exclusive of interest, shall not exceed two thousand dollars; and on all accounts, choses in action or other unliquidated claims, either legal or equitable, for money or property, where the amount claimed, exclusive of interest, shall not exceed one thousand dollars.

Judgments by confession for less sum than \$2000.

SEC. 5. Judgments by confession may be rendered by the probate court, in any of the classes of cases mentioned in the last section, where the amount confessed or claimed shall not exceed two thousand dollars.

Concurrent jurisdiction in chancery and contracts relating to real, personal and mixed property for less than \$2000.

SEC. 6. That the probate court shall have concurrent jurisdiction with the district court in all chancery or equitable matters, according to the usages of a court of chancery, and to enforce all contracts relating to real, personal or mixed property, where

the amount in controversy does not exceed two thousand dollars.

SEC. 7. That the probate court shall have exclusive original jurisdiction in all matters relating to the probate of last wills and testaments; granting letters testamentary and of administration; to authorize guardians, administrators or executors [executors] to sell and convey the real estate of their wards; in all matters relating to the settlement and distribution of decedent's estates; and a general superintending control of all estates, testate and intestate; and, in all matters of every kind arising under the laws in relation to executors or administrators, and all laws in relation to descents and distributions; and in all matters relating to the appointment of guardians for persons of unsound mind and for minors; and in the examination and allowance of all accounts of guardians of infants and persons of unsound mind, and of executors and administrators; and a general superintending control of the estates of all minors or persons of unsound mind; in all matters arising under the relationship of master and apprentices; to adjudge and measure and set apart the dower of widows in the estates of their deceased husbands, whether real, personal or mixed, where such dower is allowed by law; in all matters relating to the partition of real estate or other property, and a general superintending control over the persons or estates of orphans, and over all effects of heirs, devisees, infants or persons of unsound mind, except where, in special cases, concurrent jurisdiction is given, by law, to some other court.

Exclusive jurisdiction of what

SEC. 8. That the probate court shall have concurrent jurisdiction with the district court in all cases of appeal from a justice of the peace, and that appeals may be taken from the decisions of justices of the peace either to the probate or district court, in the discretion of the party taking the appeal.

Concurrent jurisdiction in cases of appeal from justices of peace.

SEC. 9. That the judge of the probate court shall have, at chambers, all the powers as conferred, by law, upon a judge of the district court; *Provided*, The matter in controversy does not exceed in amount the limits prescribed by section four of this act.

Probate judge have same powers at chambers as judge of district court. *Proviso.*

SEC. 10. That the probate judge shall have power to administer oaths, solemnize marriage and take acknowledgments of instruments, or [and] shall be a conservator of the peace within his own county.

Have power to administer oaths, &c

SEC. 11. That the probate judge may appoint a clerk, and such probate judge and his securities shall be responsible for all the official acts or omissions of said clerk. That the probate court or any judge thereof shall have full power to issue all process,

May appoint clerk.

Issue process to carry out provisions of this act, signed and sealed.

How served.

Practice and proceedings same as in district court.

Have power to enforce obedience to all orders, &c.

Same jury laws apply to probate as to district court

Either party have right to jury.

Regular term when held.

May hold special terms.

Sheriff attend at each term of court

Appeals from probate to district court

Appellant shall file affidavit setting forth what.

Appeal may be tried de novo.

original or mesne, necessary to carry out the provisions of this act; and that all process so issued shall be signed by himself or clerk and shall have the seal or the court attached, and shall be served as process issuing from other courts aforesaid.

SEC. 12. That the practice, process and proceedings in the probate court shall be the same as in the district court, and shall conform to the provisions of an act entitled "An Act to establish a Code of Civil Procedure," approved February 11th, A. D. 1859, and to the provisions of an act amendatory thereto, so far as the same may be applicable.

SEC. 13. That the probate court shall have full power to enforce obedience to all orders, rules, judgments and decrees made therein, or process issued therefrom, and may fine or imprison for contempt to such court or its process, in the same manner and to the same extent as the district courts.

SEC. 14. That all laws relating to the summoning, impanneling, swearing or challenging of jurors, in force in this Territory, applicable to the district courts, shall govern the probate court; and that either party shall have the right of a trial by jury, in all cases when entitled to a jury by right, of twelve good and lawful men of the county.

SEC. 15. That the probate court shall hold a regular term on the first Monday of January, March, July and October, in each year, and the judge thereof shall have full power to call as many special terms as the business of said court may require.

SEC. 17. [16.] The sheriff of each county shall attend the probate court, at each term thereof, by himself or deputies.

SEC. 18. [17.] That all appeals shall be from the probate court to the district court, from any judgment, order or decree of said court. On any such appeal, the appellant, his agent or attorney, shall file an affidavit, stating that the appellant has been aggrieved by said judgment, order or decree, and that the appeal is not taken for vexation or delay, but that justice may be done; and such appellant shall file an undertaking to the appellee, with one or more sufficient sureties, to be approved by the clerk of the probate [court,] in a sum to be fixed by the judge thereof, that said appellant will faithfully prosecute his appeal, without delay, and that he will pay the appellee all costs, losses or damages which may accrue to said appellee and the other parties interested; that said appeal may be tried de novo, upon the papers in the case from the court below; that notice of such appeal must be given within three days after the rendition of the judgment or decree, or the entry of the order appealed from in

the probate court, and that the undertaking must be filed within ten days thereafter.

SEC. 19. [18.] That an appeal on error may be taken from any judgment, order or decree of the probate court, to the district court or the supreme court, at the discretion of the party taking the appeal; that said appeal shall be taken in conformity to title twenty-sixth of the code of civil procedure.

Appeal on error
to district or su-
preme court

SEC. 20. [19.] That, for all civil cases, the probate judge shall be allowed the same fees and compensation as are allowed by law, to the clerks of the district courts for similar services; that, for the appointment of executor or administrator, guardian or curator, and certifying the same, he shall be allowed fifty cents; for granting letters testamentary or of administration, one dollar; taking bond of executor, administrator, guardian or curator, and approving same, one dollar; taking probate of will, entering and certifying same, one dollar; certificate of appointment for any purpose, fifty cents; certify[ing] or indorsing every oath administered, twenty-five cents; every order, motion, rule, settlement, approval, disapproval, application, leave or other matters, of whatsoever nature, [nature,] entered of record, of one folio or less, twenty-five cents; for each additional folio, fifteen cents; filing every paper, ten cents; administering every oath, ten cents; certificate and seal, fifty cents; taking acknowledgments of instruments, seventy-five cents; every original writ, one dollar; every subpoena or mesne process, fifty cents; precept for jury, fifty cents; swearing jury, twenty-five cents; taking verdict, twenty-five cents; every finding, twenty-five cents; giving and entering judgment, seventy-five cents; execution, one dollar; entering demands against an estate, ten cents; allowing or disallowing same, fifty cents; classifying claim, ten cents; drawing and entering indenture, one dollar; making search for record or papers, ten cents; trial without jury, fifty cents; finding of the court, twenty-five cents; continuance of cause, fifty cents; granting appeal and entering the same, twenty-five cents; appeal bond, seventy-five cents; affidavit of appeal, twenty-five cents; order of distribution, fifty cents; every citation, fifty cents; recording or copying any record or other matter, one folio, twenty-five cents; each additional folio, fifteen cents; solemnizing marriage, three dollars.

Fees of probate
judge.

SEC. 21 [20.] That sections third, fourth, fifth, sixth and seventh of this act shall have no force or validity, unless Congress confers civil jurisdiction on the probate [court,] or unless the

Sections 3, 4, 5, 6
and 7 have no
force unless de-
clared legal

supreme court of the Territory decide that the probate court has civil jurisdiction.

Acts repealed.

SEC. 22. [21.] That all acts or parts of acts inconsistent herewith are hereby repealed.

SEC. 23. [22.] That this act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER XCIX.

AN ACT Supplementary to an Act entitled "An Act to Establish and Define the Jurisdiction of Probate Courts in Leavenworth and other Counties."

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Section twenty of original act how construed.

SECTION 1. The twenty-first [twentieth] section of the act to which this is supplementary shall be construed to give effect to the provisions of said act, whenever Congress shall authorize the Territorial Legislature to confer civil jurisdiction on the probate court, or whenever the supreme court of the Territory shall decide that the Territorial Legislature possess such authority, under the Organic Act.

Provisions apply to whole Territory

SEC. 2. The provisions of the act to which this is supplementary, together with this act, shall apply to the whole Territory, and to each and every county thereof.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER C.

AN ACT to Legalize the Official Acts of Jason D. Passmore.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That all the official acts of Jason D. Passmore, as probate judge of Allen county, Kansas Territory, since January first, A. D. 1860, which are otherwise in accordance with the provisions of law, are hereby legalized and made valid, to all intents and purposes, as though the said Jason D. Passmore, as such probate judge, had been authorized, by law, to hold his office till his successor should have been elected and qualified. Official acts of Jason D. Passmore legalized.

SEC. 2. The said Jason D. Passmore is hereby authorized and empowered to continue the exercise of his office, as probate judge for the said county of Allen, until his successor is qualified or the vacancy otherwise filled, according to law. To continue in office how long.

SEC. 3. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 25, 1860.

S. MEDARY,
Governor.

CHAPTER CI.

AN ACT for the Protection of Property in Horses and other

WHEREAS, The United States Government, annually, sells large numbers of diseased horses and other animals, which are bought and scattered over the country, thus spreading the disease, thereby doing great damage; therefore,

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Diseased animals
killed when

SECTION 1. When any diseased animal shall be found, hitched or loose, off the Government Reservation, they [it] may be taken before a justice of the peace; and, after the owner, if found, has had notice, as in civil suits, the horse or other diseased animal shall be killed, if, upon said trial, it is found that the animal is so diseased as to endanger the health of other animals.

Expense of trial
paid by whom.

SEC. 2. That the expense of the trial and killing of said animal shall be paid by the owner if known; if unknown, then by the county in which said trial was had. If, upon trial, it shall appear that said killing is not necessary, then the cost to be paid by the informant.

Who can prosecute.

SEC. 3. That any inhabitant of the county where the diseased animal is found may give the information and appear as prosecutor, and either party may have an appeal, as in other cases;

May appeal

If owner appeals,
give bond.

but, before the owner of the animal can appeal, he must give a bond, in a sum not less than five hundred dollars, conditioned that he will keep the diseased animal where no other animal can come near it, and he shall be liable on his bond for a failure to comply; and any one injured may sue, or the county may prosecute on the bond. This act is intended to apply to farcin and glandered animals.

Act applies to
what animals.

SEC. 4. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER CII.

AN ACT Relating to Sales of Real Property.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. In any sale of real property, hereafter to be made, under any statutory provisions of this Territory, the officer or person whose duty it shall be to make such sale shall give the person to whom the property to be sold shall belong at least five days' notice, if such person be a resident of the county in which such property shall be situated, of the time and place of appraising the same; and, if such party be not a resident of such county, then such notice shall be at least twenty days prior to such appraisement, and shall be by publication in some paper printed in such county; but, if there be no paper therein, then by written or printed notices, put up in at least five public places in said county.

Officer making sale give what notice of appraisement.

SEC. 2. The person so notified, to whom such property shall belong, shall be entitled and allowed to designate to the person charged with the duty of making such sale, any part of such property which shall be in one and the same piece and parcel, which said part, provided two-thirds of the appraised value thereof shall be sufficient to discharge the sum for which said sale is to be made and all the costs therein, shall alone be subject to such sale.

Person so notified may designate property to be sold

SEC. 3. Nothing in this act contained shall be construed to affect the laws now in force governing such sales, in case the party to whom such property shall belong shall fail, on being notified as provided in section first of this act, to be present at the time specified in such notice, and make such designation as provided in the next preceding section hereof; but, in such case, the said sales shall be, in all respects conducted as now provided by law.

If party notified does not appear, sale proceed according to law.

SEC. 4. If the party to be notified, as provided in section first of this act, be a resident of the county in which the property to be sold shall be situated, the said notice shall be in writing, and be served in like manner as is provided for in the service of similar notices in other cases.

If party notified resident of county.

SEC. 5. The provisions of this act shall apply to all sales of real property hereafter to be made, under or by virtue of any execution on any judgment obtained in any action founded upon

Provisions apply to what sales.

any mortgage, deed of trust or other writing, or upon any contract, stipulation or agreement whatever, whether expressed or implied, together with any or all sales of real property of any kind, character, nature or class whatever, other than private or voluntary sales.

Acts repealed.

SEC. 6. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed, so far as the purposes of this act are concerned.

SEC. 7. This act shall take effect and be in force from and after its passage, and until specially repealed.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER CIII.

AN ACT to provide Revenue for the years eighteen hundred and fifty-nine and eighteen hundred and sixty.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Revenue tax

SECTION 1. That, for the purpose of raising a revenue to defray the expenses of the Territory for the years eighteen hundred and fifty-nine and eighteen hundred and sixty, there be and hereby is levied a tax of three mills on the dollar, upon all property in the Territory subject to taxation, and an additional tax of fifty cents, upon every white male inhabitant of the Territory over the age of twenty-one years.

Applied to what.

SEC. 2. That the tax thus raised shall be first applied to the payment of the ordinary Territorial expenses for the year 1860, and that portion of the ordinary Territorial expenses of the year 1859, evidenced by scrip or otherwise, and held and owned by persons to whom the same was originally issued.

SEC. 3. All persons who have paid any part of their Territorial tax for eighteen hundred fifty-nine shall be credited, by the collector, with the amount so paid on the tax hereby levied. Last years payments credited on this.

SEC. 4. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER CIV.

AN ACT Defining the Mode of Laying out and Establishing Roads.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

TERRITORIAL ROADS.

SECTION 1. That all Territorial roads, not otherwise provided for, to be hereafter laid out, shall be by petition to the county commissioners, as hereinafter provided. Petition county commissioners for roads.

SEC. 2. That all petitions for any Territorial road shall specify the place of beginning, the intermediate points, if any, and the place of termination of said road. Petition specify what.

SEC. 3. That, on application by petition, signed by at least twenty freeholders of each county through which it may be proposed to lay out and establish any Territorial road, the board of commissioners of each of said counties shall appoint one disinterested freeholder of their respective counties, as commissioners to view and survey said road. Board to appoint commissioners in each county.

SEC. 4. That previous to granting an order on any petition, presented as aforesaid, one of the parties in each county interested in the location of such road, shall enter into a bond, with two or more responsible freeholders in said county as securities, to the satisfaction of the county commissioners, payable to the Territory of Kansas, and conditioned for the payment of all expense which may accrue in the location of said road, in case the same should not be established a public highway. Bond to be given by parties interested.

Commissioners to meet and perform duties when.

SEC. 5. That, on the filing of a petition and bond, agreeably to the provisions of the third and fourth sections of this act, which shall be at the same meeting of the commissioners of all the counties interested in the location of the road, the commissioners shall issue their order, directing the commissioners by them appointed to meet at the place of the beginning of said road, on the first Wednesday of the month then next ensuing; and the commissioners, when met as before directed, shall employ a skillful surveyor, chain carriers, a marker and other assistants, if necessary, and proceed to the discharge of the duties of their appointments, respectively; *Provided*, That each commissioner, surveyor and chain carrier shall, before entering on the duties of his appointment, take an oath or affirmation, to discharge his duties faithfully and according to law.

Proviso.

Road how laid out.

SEC. 6. That each Territorial road shall be laid out, from the place of beginning to the place of termination, on the most direct route, that suitable ground can be found whereon to establish the same, always having regard to the intermediate points, if any, in such road; and all Territorial roads that shall hereafter be established, agreeably to the provisions of this act, shall be opened and considered public highways, sixty-six feet wide.

Same.

SEC. 7. That the commissioners appointed to lay out and establish any Territorial road shall cause the same to be correctly surveyed and marked, throughout the whole distance of the same, and note the courses and distances thereof; and, at the end of each mile, shall mark the number thereof, on a tree or monument erected by them for that purpose; and the commissioners and surveyor of each road shall make a certified return of the survey and plat, the whole length of said road, specifying in said return the distance the same may have been laid out in each county, and whether, in their opinion, the public convenience requires the establishment of said road, or any part thereof, one complete copy of which return shall be signed by a majority of the commissioners and surveyor, and immediately be deposited in the commissioner's office in each county in which any part of said road shall be laid out; and the auditor of said county shall file the same in his office.

Return made.

If report favorable.

SEC. 8. That, in case the commissioners report in favor of the establishment of such road, the county commissioners of the respective counties shall, at their next session after the filing of said report, order the auditor to cause a notice thereof to be published in some newspaper in general circulation in said county, for four consecutive weeks before the next meeting of the board,

notifying all the parties interested in the establishment of the same, that the commissioners of the said counties would hear the parties in favor of or against the establishment of said road, and the application for damages of any person, on account of the location of said road through his, her or their lands : *Provided*, Proviso. That all persons who do not make application for damages, at the next regular session of the commissioners after the application [publication] of said notice, shall be considered and held to have released all their claim to damages, by reason of the location of said road ; *Provided, further*, That, if there be any lands, the owners of which have not granted the right of way, nor filed their application for damages with the county commissioners, the whole case shall be continued [to] the next regular session of the commissioners, and they shall again order the auditor to cause notice to such owners and all other persons interested to be published in some newspaper in general circulation in the county, for four consecutive weeks before their next meeting, that they will, at such meeting, hear all applications for damages.

SEC. 9. That, if any person or persons shall consider themselves aggrieved by the location of said road through his, her or their premises, such person shall file a petition, in writing, setting forth the premises on which they claim damages, with the commissioners of the proper county, at their next regular session after the publication of the notice provided for in the preceding section ; and said commissioners shall appoint a jury of three disinterested freeholders of the county, whose duty it shall be, after having taken an oath or affirmation to faithfully and impartially discharge the duties imposed upon them by this act, to proceed to view the said road the entire distance the same may have been located through the premises of the complainant or complainants, and of minors, idiots, lunatics or insane persons, where the same are known, and to assess the compensation to be paid in money for the property sought to be appropriated, always taking into consideration the benefits arising from the location of said road ; *Provided, however*, That it shall be lawful for the petitioners for such road, or any one of them, to obtain relinquishment of damages and right of way, from any person or persons through whose land said road may be located. If person aggrieved by location. Proviso.

SEC. 10. That, if the commissioners shall be satisfied that the amount so assessed and determined, by the jury aforesaid, be just and equitable, and the said road or any part thereof will, in their opinion, be of sufficient importance to the public to cause the damages to be paid by the county, they shall order the same Damages paid when and by whom.

If no damages
claimed.

to be paid the petitioners, from the county treasury; but if, in their opinion, the said road is not of sufficient importance to the public to cause the same to be paid by the county, they may refuse to establish the same a public highway, unless the damages and expenses are paid by the petitioners; but, if there be no applications made for damages, or the damages are paid by the county or petitioners, then and in either case the commissioners may establish the same a public highway, and order the same to be recorded.

Compensation of
persons employed

SEC. 11. That the following persons, required to render services under this act, shall receive compensation for each day they shall necessarily be employed as follows, to wit: Commissioners, two dollars per day; chain carriers, markers and other assistants, one dollar and fifty cents each, and surveyors three dollars, to be charged as costs and expenses; the commissioners to be paid out of the county treasury of their respective counties, on the order of the county auditor; and the surveyor, ma[r]ker, chain carriers and other assistants, to be divided among all the counties interested, and paid out of the county treasury of the respective counties, on the order of the county auditors.

Appeal to proper
court

SEC. 12. That an appeal from the final decision of the commissioners, or [on] any petition for damages sustained by the location of any Territorial road, as provided for by this act, shall be allowed to the proper court of the proper county; *Provided*, That notice of such appeal be given, by the appellant or appellants, during the same session of the commissioners at which such decision was made; and the appellant or appellants shall, within ten days thereafter, enter into bond, with good and sufficient security, to be approved by the county auditor, for the payment of all costs and expenses arising from or in consequence of such appeal; and the appellant shall, within five days thereafter, deliver, to the proper court, a transcript of the proceedings had before the commissioners; and, upon the reception of said transcript, the judge shall immediately issue a writ of summons upon such transcript, against the obligors in the bond filed under the fourth section of this act, which writ shall be served and returned as other writs of like character; and, in such suit, the appellant shall be plaintiff and the said obligors defendants; and, upon the return service of such writ, the judge shall issue a venire for a jury of six disinterested jurors of the county, who, after taking an oath or affirmation faithfully and impartially to discharge the duties of their appointment, shall proceed, on the day named in the venire, to view and determine the matter complain-

Proceedings un-
der appeal.

ed of, and, without delay, deliver their decision, in writing, to the said court, who shall enter the same on record, with the former proceedings, and certify the decision obtained in said court to the county auditor; and the decision made and entered on record shall be final, except as hereinafter provided.

SEC. 13 That, in all cases of appeal from the final decision of the county commissioners, as provided in the twelfth section of this act, the appellant or appellants shall pay all costs that may accrue in consequence of said appeal, unless the award rendered by the jury, appointed by said court, shall exceed in amount the award rendered by the jury appointed by the county commissioners.

Costs paid by whom

SEC. 14. That if, upon the reception of the decision so obtained, the county commissioners shall not deem such road of sufficient importance to cause the expenses incurred and damages so assessed to be paid by the county, they may refuse to establish the same, unless the parties interested in the location of said road shall pay or cause to be paid, before the opening of said road, to the satisfaction of the county commissioners, in case said road is established a highway, all expenses incurred and damages assessed; *Provided, however,* It shall be lawful for the commissioners, if, in their opinion, a part only of said road will be of public utility, to record and establish such useful part, and reject the residue, in case it be capable of division.

If importance of road will not warrant expense.

PROVISO.

SEC. 15. That, in case such expense and damages are paid or secured to be paid as aforesaid, or the commissioners direct the same to be paid by the county, then and in either case they shall enter an order that said road be established a public highway.

If damages paid, road to be established.

SEC. 16. That, for their services required by the twelfth and thirteenth sections of this act, the officers and other persons required to perform services shall each be entitled to the same fees as they are entitled to by law for like services in other cases; the auditors and clerks to be paid out of the county treasury, and the judge and others, entitled to fees, to be taxed in the bill of costs in the cause in court.

Fees how paid.

[COUNTY ROADS.]

SEC. 17. That all applications for laying out county roads, viewing, reviewing, altering and vacating any county road shall be by petition to the county commissioners, signed by at least twelve freeholders of the county, residing in the vicinity where said road is to be laid out, viewed, reviewed, altered or vacated; and one or more of the signers to any petition, presented as aforesaid, shall

County roads to be petitioned for

Bond to be given
by petitioners

If prayer not
granted.

Petition specify
what.

Not to be given
of petitioning.

When petition
presented, board
to appoint com-
missioners

Their duties.

enter into bond, with sufficient security, payable to the Territory of Kansas, for the use of the county, conditioned that the person or persons making such application for a view, review, alteration or vacation of any road, shall pay into the treasury of the county, the amount of all costs and expenses accruing on such view, review, alteration or vacation. In case the prayer of said petitioners shall not be granted, or when the proceedings had in pursuance thereof shall not be finally confirmed and established, and on neglect or refusal of the person so bound, after a liability shall have accrued, to pay into the treasury, according to the tenor of the bond, all costs and expenses that shall have accrued, the auditor of the county shall deliver such bond to the prosecuting attorney, whose duty it shall be to collect and pay over the same to the county treasurer; and, in all cases of contest, the court having jurisdiction of the case, shall have full power to render judgment for costs, according to justice between the parties.

SEC. 18. That all petitions for laying out or altering any county road shall specify the place of beginning, the intermediate points, if any, and the place of termination of said road.

SEC. 19. That, previous to any petitions being presented for a county road, or for the alteration of a county road, or for the vacation of a county road, notice thereof shall be given by advertisement, set up at the clerk's office, and in three public places in each township through which any part of said road is designed to be laid out, altered or vacated, at least thirty days previous to the meeting of the commissioners at which the petition shall be presented; also, a notice, stating the time when such petition is to be presented and the substance thereof, shall be published for four consecutive weeks, before the presentation of any such petition, in some newspaper published in the county in which may be situated the road sought to be established, altered or vacated by such petition, if there be a newspaper printed therein; and, on the petition being presented, and the commissioners satisfied that notice has been given as aforesaid, they shall appoint three disinterested freeholders of the county as viewers, who shall, also, be a jury to assess and determine the compensation to be paid in money for the property sought to be appropriated; and they shall, also, assess and determine how much less valuable, if any, the land or premises from which such appropriation may be taken will be rendered by the opening and construction of said road, and, also, a skillful surveyor to survey the same, and shall issue their order, directing said viewers and surveyor to proceed on a day to be named in said order, or, on their failing to meet on

said day, within five days thereafter, to view, survey and lay out or alter said road; and, also, determine whether the public convenience requires that such road, or any part thereof, shall be sixty-six feet in width, or whether a less width than sixty-six feet will as well promote the public convenience, and report the width which, in their opinion, such road should be established and opened.

SEC. 20. That it shall be the duty of the principal petitioner to give at least six days' notice, in writing, to the owner or owners, or their agents, if residing within the county, or, if such owner be a minor, idiot or insane person, then to the guardian of such person, if a resident of said county, through whose land said road is proposed to be laid out and established; and, also, six days' notice to the viewers and surveyor, named in the order of the commissioners, of the time and place of meeting, as specified in the said order.

Principal petitioner to give six days' notice to owners of lands.

SEC. 21. That it shall be the duty of the viewers and surveyor appointed as aforesaid, after receiving the notice required in the foregoing section, to meet at the time and place specified in the order of the commissioners aforesaid, or within five days thereafter, and, after taking an oath or affirmation faithfully and impartially, to discharge the duties of their appointments, respectively, shall take to their assistance two suitable persons, as chain carriers, and one marker, and proceed to view, survey and lay out or alter said road, as prayed for in the petition, or as near the same as, in their opinion, a good road can be made, at a reasonable expense, taking into consideration the utility, convenience and inconvenience and expense which will result to individuals, as well as to the public, if such road or any part thereof shall be established and opened or altered; and, also, as a jury, discharge the duties required of them by the fourth section of this act. And the said viewers shall, in addition to their duties as viewers, also, at the same time, assess and determine the damages sustained by any person or persons through whose premises the said road is proposed to be established; *Provided*, That such viewers shall not be required to assess or award damages or compensation to any person or persons, except minors, idiots or lunatics, in consequence of the opening of said road, unless the owner or owners, or their agents, having notice, as provided for in the foregoing section, of the application and proceedings by which his, her or their property is sought to be appropriated, shall have filed a written application with said viewers, giving a description of the premises on which, by them, damages or compensation are

Commissioners and their duties after taking oath.

Provided.

claimed ; *Provided, further,* That all application for damages shall be barred, unless they be presented as provided for by this act.

Duties of surveyor.

SEC. 22. That the surveyor shall survey the said road under the direction of the viewers, and cause the same to be conspicuously marked throughout, noting the courses and distances, and, at the end of each mile, shall cause the number of the same, and, also, the commencement and termination of said road or survey, to be marked on a tree or monument erected for that purpose ; he shall, also, make out and deliver to one of the viewers, without delay, a correct certified return of the survey of said road, and a plat of the same ; and the viewers shall make and sign a report, in writing, stating their opinion in favor of or against the establishment or alteration of said road or any part thereof, and set forth the reasons of the same ; which report, together with the plat and survey of said road or alteration, shall be delivered to the county auditor, by one of the viewers, on or before the first day of the session of the commissioners then next ensuing. And it shall be the duty of the commissioners, on receiving the report of the viewers aforesaid, to cause the same to be publicly read on two different days of the same meeting ; and, if no legal objection shall be made to them for review of said road, or [any] part thereof, or alteration, and they are satisfied that such road, or [any] part thereof, if the same be capable of division, will be of public utility, and the report of the viewers being favorable thereto, and that no damages have been claimed or assessed, they shall, on the third day of the session, cause said reports, survey and plat to be recorded, and, from thenceforth, said road shall be considered a public highway, and the commissioners shall issue their order to the proper overseer of highways, directing said

Viewers make report.

Commissioners declare public highway when

If report of viewers against road.

Proviso.

road to be opened ; but, if the report of the viewers be against such proposed road or alteration, or if, in the opinion of the commissioners, the same shall be unnecessary, then no further proceedings shall be had thereon ; and the obligor or obligors, in the bond securing the costs and expenses, shall be liable for the full amount of such costs and expenses ; *Provided,* That in all cases, where an oath or affirmation is required to be taken by any person under the provisions of this act, the same may be administered by the surveyor or by one of the viewers or reviewers, who have previously been sworn or affirmed themselves.

Viewers to make separate report of damages

SEC. 23. That it shall be the duty of the viewers aforesaid, at the same time at which they are required to make their report of the view, to make a separate report, in writing, stating the amount of damages, (if any,) and to whom, which by them

have been assessed, which would accrue by the opening of said road; and they shall, also, file the written application on which such assessments have been made, with the county auditor; and the commissioners shall cause the said report to be publicly read on the third day of the session at which it was received. [If] the commissioners shall be satisfied that the amount so assessed and determined be just and equitable, and that the said road will, in their opinion, be of sufficient importance to the public to cause the damages which have been assessed as aforesaid, to be paid by the county, they shall order the same to be paid to the applicant or applicants from the county treasury; but, if in their opinion, the said road is not of sufficient importance to the public to cause the same to be paid by the county, they may refuse to establish the same a public highway, unless the damages which have been assessed are paid by the petitioners.

If road of sufficient importance
damages paid by
county.

If not, by peti-
tioners.

SEC. 24. That when the place of beginning or true course of any Territorial or county road shall be uncertain, by reason of the removal of any monument or marked tree, by which such road was originally designated, or from any other cause, the county commissioners of the proper county may appoint three disinterested landholders of the county to review and straighten said road, if they shall deem it necessary, and a competent surveyor to survey the same; and said reviewers and surveyor, after taking the oath or affirmation required by the fifth section of this act, shall view and survey said road, and the same correctly mark throughout, as in case of new roads, and shall make a return of said survey, and a plat of said road, to the commissioners, who shall cause the same to be recorded as in other cases; and from thenceforth, said road, surveyed as aforesaid, shall be considered a public highway.

When true course
of road uncertain.

SEC. 25. That when it shall become necessary to establish a road on a county line, the inhabitants along such line may petition the commissioners of their respective counties for a view of such road, in the manner pointed out in the preceding sections of this act; and it shall be the duty of such board of commissioners, for each of the counties interested, to appoint two discreet landholders as viewers, who, or a majority of them, shall meet at the time and place named in the order of the commissioners of the oldest county interested, who shall appoint a surveyor; and the viewers and surveyor appointed as aforesaid, shall, also, be a jury for the assessment of damages, and shall, in all respects, be governed by the provisions of the preceding

When road neces-
sary on county
line—proceedings
governed by this
act.

sections of this act; and the viewers and surveyor appointed as aforesaid, shall make their report, in writing, for or against such road, to the commissioners of the counties concerned; and the said commissioners, upon receiving such report, shall, in all respects, be governed by this act.

If of sufficient importance may be opened.

SEC. 26. That if, on receiving such report, and there being no legal objections thereto, and the commissioners of all the counties interested shall be of the opinion that such road, if opened, would be of public utility, they shall order the same to be opened in the manner pointed out by this act.

Any person refusing to perform duties, fined.

SEC. 27. That, if any person who shall be appointed by the county commissioners as viewer, reviewer or surveyor of any road, shall refuse or neglect to perform the duties required by this act, without making satisfactory excuse for such refusal or neglect, he shall be fined in any sum not exceeding ten dollars, to be recovered by action of debt, by any person suing for the same, before any justice of the peace within the township wherein the person so appointed and refusing or neglecting may reside, and shall be paid over, without delay, by the justice of the peace, or constable collecting the same, to the treasurer of the township, taking his receipt therefor. And the trustees shall cause all fines, which shall be paid into the township treasury, under the provisions of this act, to be expended on roads and bridges within their townships.

Fines how expended.

Compensation of persons employed.

SEC. 28. That all persons, required to render services under this act, shall receive compensation for each day they shall necessarily be employed, as follows, to wit: Viewers and reviewers, two dollars; chain carriers and markers, one dollar and fifty cents each; and surveyor, three dollars, to be charged as costs and expenses, and paid out of the county treasury on order of the county auditor.

TOWNSHIP ROADS.

Township roads petitioned for on giving notice.

SEC. 29. That, if any person or persons shall, for the convenience of themselves and neighbors, wish to have a township road laid out, from the plantation or dwelling place of any person or persons, or from any mill or house of public worship, or to any public road, or from one public road to intersect another, it shall be lawful for such person or persons to petition the board of county commissioners for the same, after giving twenty days' previous notice thereof, by advertisement posted up at three public places within said township, setting forth in said advertisement the time when such petition is to be presented, the place

of beginning, intermediate points, if any, and place of termination of said road.

SEC. 30. That on such petition being presented to the board, and they being satisfied that proper notice has been given as aforesaid, they shall cause the petitioner or petitioners to enter into bond, with sufficient security, payable to the Territory, for the use of the township, and conditioned that the person or persons, making such application, shall pay the amount of all costs and expenses of the view and survey of said road, if not located; and the petition shall be read in open meeting of said board; and, they being satisfied that such proposed road is necessary, they shall appoint three judicious, disinterested landholders of the township, who shall constitute a jury, and a surveyor, who shall, after taking the oath or affirmation required by the fifth section of this act, take to their assistance two chain carriers and a marker, and proceed at the time directed by the board, or within three days thereafter, to view the ground along which said road is proposed to be established, and locate the same as near the prayer of the petitioner or petitioners as a good road can be had at a reasonable expense, and determine the compensation which shall be paid to the owner or owners of the land through which it is proposed to establish the same, and the amount of damages he, she or they may sustain.

Petitioners to give bond.

If road necessary, jury and surveyor appointed, and their duties.

SEC. 31. That any township road which commences in a Territorial, turnpike or county road, and passes on and intersects another Territorial, turnpike, county or township road leading or terminating in a county, turnpike or Territorial road, shall be opened and kept in repair by the overseer of highways in whose district any such township road may be situated in whole or in part; and it shall be the duty of the overseers of highways to cause so much of the labor of the person immediately interested in such township road to be applied to the opening or keeping such township road in repair, as he may deem reasonable; and the cost of the view and survey of such roads shall be paid out of the township treasury; but, if the viewers shall report that the prayer of the petitioner or petitioners is unreasonable and ought not to be granted, no further proceedings shall be had thereon by said board.

Township road commencing and terminating in county, turnpike or Territorial road, to be kept in repair by overseer

View and survey to be paid by township.
If report unfavorable

SEC. 32. That all male persons between twenty-one and fifty years of age, who have resided thirty days in this Territory, and who are not a township charge, shall be liable, yearly and every year, to do and perform two days' work on the public roads,

Male persons of certain ages to perform two days' work yearly.

under the direction of the overseers of highways, within whose district they may respectfully [respectively] reside.

When to be ordered out.

If person notified, negligent of duty.

Fines how expended.

Proviso.

Removal to another district after road duty performed.

Persons called upon to appear when and with what tools, &c.

SEC. 33. That it shall be the duty of every overseer of highways to order out every such person, resident as aforesaid, between the first day of April and the first day of October, annually, to do and perform the work aforesaid, on the public roads within his district; and, if any such resident, being personally warned by the overseer of highways, or by leaving a written notice at his usual place of abode, or by some person under the direction of the overseer, by whom such warning can be proven, shall refuse or neglect, having had at least three days' notice, to attend by himself or substitute, to the acceptance of the overseer, on the day and at the time and place directed by the overseer, or, having attended, shall refuse to obey the directions of the overseer, or shall spend the time in idleness or inattention to the duties assigned him, every such delinquent shall forfeit and pay for neglect to attend, or for any of the offenses above specified, the sum of two dollars for every such offense, to be recovered by action before any justice of the peace of the proper township, at the suit of the overseer within whose district he may reside; and the money so collected shall be applied by said overseer to the improvement of the road in his district, and accounted for by him at the annual settlement with the trustee of his township; *Provided*, That no person shall be released from the performance of labor on the public highways by reason of the neglect of any overseer to order out such person on or before the first day of October.

SEC. 34. That in case any person shall remove from one district to another, who has, prior to such removal, performed the whole or any part of the labor aforesaid, or in any other way has paid the whole or any part of the amount aforesaid, in lieu of such labor, and shall produce a certificate of the same from the overseer of highways of the proper district, such certificate shall be a complete discharge for the amount therein specified.

SEC. 35. That any person, called upon to perform any labor upon the public roads and highways, under any provisions of this act, shall, by himself or substitute, appear at the place appointed by the overseer, at the hour of eight o'clock in the forenoon, with such necessary tools and implements as the said overseer may direct, and the overseer may, if necessary for the improvement of the roads, order any person owning the same to furnish a team of horses, mules or oxen, and wagon, cart,

scraper or plow, to be employed and used on the roads, under the direction of said overseer, who shall allow such person a reasonable compensation for the use of said team, wagon, cart, scraper or plow, in discharge of any labor or tax due from said person.

SEC. 36. That for the purposes provided for in the preceding sections of this act, the residence of any person who has a family shall be held to be where his family resides; and the residence of any other person shall be held to be where he boards in any road district in this Territory. Residence held to be where

SEC. 37. That, whenever it shall happen, in consequence of sickness, absence from home, or any other cause, that the two days' labor aforesaid shall not be performed within the time specified in this act, the overseer shall be authorized to require the performance of such work, at any other time prior to the first day of November then next ensuing; *Provided*, That such delinquent may discharge the same, by paying to the overseer the sum of three dollars, who shall appropriate it agreeably to the thirty-fourth [thirty-ninth] section of this act. If labor not performed within time specified.

SEC. 38. That the several overseers of highways within their respective districts shall collect, by suit or otherwise, all fines, forfeitures and penalties arising and accruing under the provisions of this act, unless the collection thereof is otherwise herein provided for, and they are hereby authorized and required, before their settlement with the township trustee, to prosecute to final judgment all persons neglecting or refusing to comply with the provisions of this act, from whom such fine, forfeiture or penalty, in the opinion of the overseer, can be collected by execution, and the said judgments, if not paid, together with the costs thereon, shall remain and be in force against the judgment debtor, as other judgments at law are in case of debt; *Provided, however*, That all persons who are or may be exempt from performing labor on the public highways by any law of this Territory, shall not be subjected to the provisions of this section. Overseer to collect fines, &c.

SEC. 39. That the several overseers of highways shall expend all moneys by them collected for the benefit of the roads and highways in the proper districts, by the overseers collecting the same; and every overseer is hereby required to account to the trustees of the township, at the annual settlement, for all moneys expended under this act; and they shall, also, return a full and true list and statement of the names of all persons within their respective districts who have been ordered out to perform the two days' labor, as required by this act, and who have refused or Overseer to expend money on roads

To return list of delinquents.

Fines, &c., paid
to overseer on
demand.

Overseer to ren-
der annual ac-
count.

Money remaining
in overseer's hand
at time of settle-
ment paid to suc-
cessor.

May sue out exe-
cutions.

Overseer to open
all public roads
laid out in his
district.

Privileges in so
doing

neglected to perform the same; and all fines and forfeitures, sued for and recovered under the provisions of the act, shall be paid over, on demand, by the justice of the peace or constable collecting the same, to the overseer of such road district wherein such fine or forfeiture accrued; and the several overseers shall, also, render an account to the trustees, at the annual settlement, of all moneys that remain in their hands at the time of settlement; also, all judgments that remain unpaid, and the name of the judgment debtor, and the justice before whom such judgments were obtained, with the amount thereof; and the trustee shall make such order, as to the prosecution of the suits by the overseers of the proper districts, against such delinquents, as, in the judgment of the trustee, the interest of the township may require.

SEC. 40. That all moneys that may remain in the hands of any overseer at the time of the annual settlement with the township trustee, shall be paid over to his successor in office, as soon as such successor shall be elected and qualified, and be expended by him for the benefit of roads and highways, as provided for in the foregoing section. And it shall be lawful for any overseer to sue out executions on any judgments that remain unpaid, within his proper district, any time when, in his opinion, the same can be collected; and the money so collected, (if any there be,) shall be expended, as provided in the foregoing section.

SEC. 41. That it shall be the duty of each and every overseer of highways to open or cause to be opened all public roads and highways which shall have been or may hereafter be laid out and established through any part of the district assigned to such overseer; the same to keep in repair, and remove or cause to be removed all obstructions that may, from time to time, be found thereon; for which purpose the overseers are hereby authorized to enter upon any uncultivated lands, unincumbered by a crop, near or adjoining the public roads, to cut and carry away any timber, to dig or cause to be dug and carried away, any gravel, sand or stone, which may be necessary to improve or repair said road; and to enter on any lands adjoining or lying near the road, to make such drains or ditches through the same as they may deem necessary for the benefit of the roads, doing as little injury to said lands and timber as the nature of the case and the public good will permit; and the drains and ditches so made, shall be kept open by such overseers, if necessary, and shall not be obstructed by the owners or occupier of such lands or any other person or persons, under the penalty of forfeiting a sum not

exceeding ten dollars for each and every offense, to recovered and appropriated as provided for in the foregoing sections of this act.

SEC. 42. That all avenues, streets and alleys, in villages, towns and cities, which are or may be laid out agreeably to law, shall be and the same are hereby declared public highways for every purpose whatsoever; *Provided*, That the municipal authorities of any incorporated city, town or village, may make, ordain and enforce such laws and ordinances concerning the sidewalks of the streets of such city, town or village, as shall be deemed necessary to prevent such sidewalks from being used for the passage of horses, wagons or other carriages, or for hitching or standing horses or other animals thereon.

Avenues, streets and alleys declared highways,

Proviso.

SEC. 43. That each and every overseer of highways, who shall cut any timber or take away any timber, stone or gravel, for the purpose of repairing any road, or the building or repairing any bridge or crossways within his district, shall, on demand of the owner or owners, their agent or agents, or the guardian or guardians of any minor, idiot or lunatic, of the premises from which such timber, stone or gravel shall have been taken as aforesaid, give a certificate, showing the quantity and quality of such timber, the number of loads of stone or gravel, with the value thereof, respectively, and the time the same shall have been taken.

Overseer taking timber, stone and gravel to give certificate of amount and value.

SEC. 44. That any person or persons who shall receive a certificate, as provided for in the foregoing section, shall present the same to the county commissioners of the proper county, at any regular session of said commissioners, within six months after the taking and carrying away of such timber, stone or gravel, and, the commissioners being satisfied that the amount of damages, certified as aforesaid, be just and equitable, shall cause the same to be paid out of the county treasury; but, if the commissioners shall be of opinion that the amount of damages, as certified to by the overseer, ought not to be paid by the county, they may refuse to pay the same; in which case, they shall determine what sum, in their opinion, would be just; but, if the applicant for the payment of damages shall refuse to receive the amount certified to by the overseer or the amount determined on by the commissioners, then, and in either case, the commissioners shall require the said applicant to enter into bond, with good and sufficient security, made payable to the Territory of Kansas, for the use of the county, conditioned for the payment of all costs and expenses that may accrue on a view for the assessment of damage.

Persons holding certificate to be paid by county if account just.

If not just.

If applicant refuse to receive amount awarded.

Jury appointed to
view, when, and
their duties

SEC. 45. That, on the filing of the bond, as provided for in the foregoing section, the commissioners shall appoint a jury of three disinterested citizens of the county, who shall, after first taking an oath or affirmation to faithfully discharge the duties of their appointment, proceed, on a day to be named in the order of the commissioners or on a failure to meet on said day, within five days thereafter, to view and examine the matter complained of, and assess and determine the damages, if any, and return their decision, in writing, to the auditor of the county, on or before the first day of the next regular session of the commissioners. But if, upon actual view of the premises, the jury shall be of opinion that the amount of damages are not greater than the amount proposed to be paid by the commissioners, then the obligor or obligors, in the bond filed with the commissioners, shall pay all the costs and expenses accruing under the view.

If damages not
declared greater.

Guide boards to
be put up by over-
seer.

SEC. 46. That each supervisor, [overseer,] within his district, shall erect and keep up, at the expense of the township, at the forks of every Territorial and county road, a post and guide-board or finger-board, containing an inscription in legible letters, directing the way and distance to the town or towns, or public place or places, situated on each road respectively.

Any person dis-
turbng same,
fined.

SEC. 47. That if any person shall willfully demolish, throw down, alter or deface any mile-board or guide-board, on or at the fork of any public road, every person so offending shall, upon conviction thereof, before any justice of the peace of the proper county, be fined in any sum not exceeding ten dollars, with costs of suits, and the money, when collected, shall be by the justice of the peace or constable collecting the same, paid over to the overseer in whose district the offense was committed, and be by him appropriated to the repair of the roads and highways within his district, agreeably to the provisions of this act.

Road tax levied.

SEC. 48. That the commissioners of each county in this Territory, at their meeting in October, shall levy a road tax of not less than two nor more than five mills on the dollar, on all the lands in their respective counties, subject to taxation, without including the improvements thereon; and said tax may be worked out on the public highway, under the direction of the overseer of the district where the land is situated, by any able bodied man, at the rate of two dollars per day; *Provided*, That the tax herein mentioned, for the year A. D. 1860, shall be levied in April next.

May be worked
out.

Proviso.

SEC. 49. That it shall be the duty of the county clerk, imme-

diately after such tax has been levied, upon the presentation, by the trustees of their respective townships, of a list of all persons liable to perform labor on the roads or highways, or subject to taxation for the same, to make out and deliver to each trustee aforesaid, an abstract duplicate of the amount of road tax each person in said township may stand charged with; and the trustee shall then provide, [proceed,] agreeably to the provisions hereinafter contained.

County clerk to deliver account of road tax due from each person to trustee.

SEC. 50. That whenever the trustee of any township shall have received any money from the county treasury, for road purposes in such township, he shall cause the money, so received, to be appropriated to building bridges or repairing the public roads within his township; if for the building of a bridge or bridges, he shall give at least twenty days' notice, by advertisement posted up in five of the most public places in said township, of the time and place of such sale, and sell to the lowest bidder, if, in his opinion, such bidder be competent to perform the same, such bridge or bridges as aforesaid, as they may deem expedient, equal to the amount of money to be appropriated as aforesaid; and, whenever such labor shall be performed, agreeably to contract or conditions of sale, the trustee shall, on demand, pay to the person or persons who have performed such labor, the amount due for the same.

Money applied to building bridges and repairing roads.

If for bridges, to proceed how.

SEC. 51. That, if the trustee of any township shall deem it expedient to appropriate the money aforesaid, or any part thereof, to the improving of the public roads and highways, he may cause the amount thus set apart for the purpose of improving any road or roads in the several districts in said township, to be expended under the superintendence of the overseer of highways of said districts, or by such other persons as they may see proper to appoint; and it shall be the duty of the overseer, or such other person thus appointed, on receiving the amount so appropriated, to proceed to expend the same in improving of the roads and highways in the proper districts: First, By procuring, by purchase or otherwise, such number of plows, scrapers and other tools, as the township trustee shall direct or deem necessary for that purpose. Secondly, By the purchase of such materials as may be necessary, and to the employment of such number of teams and able bodied men, to perform such labor, at the customary price, as may appear to said overseer or superintendent to be just and right.

If for improvement of roads, proceed how.

SEC. 52. That the overseers of the highways of the several districts shall give three days' notice to persons residing in the

Three days' notice to be given persons required to perform work.

If not all paid,
second notice.

district, charged with a road tax mentioned in a preceding section, and the time and place they will attend, and direct the work to be performed as aforesaid; and, in case the whole of said tax, due from residents within any district, shall not be paid in pursuance of the first notice aforesaid, in consequence of absence from home, sickness or other inability, the overseer shall appoint a time that he will again attend, and shall give notice as aforesaid to such delinquents; and, if such tax shall not be paid before the first day of September, he shall return the same as delinquent to the township trustee, on or before the tenth day of said month; the township trustees shall return all delinquent road taxes to the county clerk, on or before the twentieth day of September, who shall place the same upon the tax roll; and such delinquent taxes shall be collected as other taxes upon said roll.

If not paid by 1st
of September, re-
turned delinquent

Obstructions how
removed.

SEC. 53. That any time during the year when any public highway shall be obstructed, by the fall of timbers or any other cause, or any bridge shall be impaired, so the passage of teams or travelers on said road, bridge or crossing, shall be dangerous, and the overseer of highways in the district in which such obstruction or impaired bridge may exist, shall be notified of the same, it shall be his duty to cause such obstruction to be removed or bridge repaired forthwith, for which purpose he shall immediately order out such number of inhabitants of his district as he may deem necessary to remove said obstructions or repair said bridge.

Person neglecting
duty fined.

SEC. 54. That each and every person so ordered out, who shall, after having one days' notice, refuse or neglect to attend, with proper implements wherewith to labor, at the time and place appointed by the overseer, or shall spend the time in idleness or inattention to the duties assigned him, every such delinquent shall forfeit and pay the sum of two dollars for every such offense, to be recovered, paid over and accounted for, and appropriated agreeably to the provisions of this act.

Persons perform-
ing over work.

SEC. 55. That, in all cases where any person shall, under the direction of the overseer, perform more labor on the public road than may be due from him, the overseer shall give such person a certificate, specifying the amount of extra labor so performed, which certificate shall be received for the amount specified in such certificate, in discharge of any labor within the same district, which may be due from the holder of such certificate, in any succeeding year, under the provisions of this act.

SEC. 56. That each and every overseer of highways who shall

neglect or refuse to perform the several duties enjoined on him by this act, or who shall, under any pretence whatever, give or sign any receipt or certificate, purporting to be a receipt or certificate for labor or work performed or money paid, unless the labor shall have been performed or tax paid, prior to the giving or signing such receipt or certificate, every overseer so offending shall forfeit, for every such offense, not less than five dollars nor more than fifty dollars, to be recovered by an action before any justice of the peace within the township where such overseer may reside; and it is hereby made the duty of the trustees of the townships to prosecute all offenses against the provisions of this section; *Provided*, That, if any overseer conceive himself aggrieved by the judgment of such justice of the peace, he may, on giving sufficient security to said justice for the payment of costs, appeal to the proper court, who shall make such order thereon as to them may appear just and reasonable; *Provided*, further, That this section shall not be so construed as to prevent any person from prosecuting any overseer for any offense against the provisions thereof; *Provided*, That Doniphan county shall be exempted from the operation of this act.

Overseer neglecting duties or otherwise offending, fined.

Proviso

SEC. 57. That all laws and parts of laws conflicting with this act be and the same are hereby repealed.

Acts repealed.

SEC. 58. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER CV.

AN ACT to Declare certain Roads Public Highways.

*Be it enacted by the Governor and Legislative Assembly of
Kansas :*

Certain roads de-
clared public
highways

That the following roads be and they are hereby declared public highways :

SECTION 1. The road commencing at James W. Maunor's, on the line between Kansas Territory and the State of Missouri, about two miles from Westport, running thence to M. Cleave's, Coffey's, on Camp creek ; thence to Squiresville ; thence, on the main traveled road, by the way of Fisher's, to Paola.

SEC. 2. The road leading from Oxford, in Johnson county, on the main traveled stage road, to Squiresville ; thence, by Canahan McCord's residence and the late residence of John Vickars, to Paola and Osawatomie.

SEC. 3. The road commencing at Paola, in Lykins county ; thence, on the main traveled road, to Peoria City, in Franklin county ; thence to Ohio City.

SEC. 4. The road leading from Paola, Lykins county, to Miami ; thence to Westpoint, on the line between Kansas Territory and the State of Missouri.

To be kept open
and in repair ac-
cording to law.

SEC. 5. That said roads are required to be kept open and in repair, and regulated, in all respects, in such manner as may be prescribed by law for the regulation of Territorial roads.

SEC. 6. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER CVI.

AN ACT Relating to Roads, Highways and Bridges in Doniphan County,
and Providing for the levying of Taxes to pay for the same.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas :*

SECTION 1. The tribunal transacting county business in and for the county of Doniphan shall have power to provide, in the manner prescribed by law, for the levy, assessment and collection of a tax for county road, highway and bridge purposes, not to exceed one mill on a dollar of the assessed value of the property of said county.

County tribu.
authorized to
raise tax for
roads and bridge.

SEC. 2. There shall, in no case, be assessed, levied or collected, in the said county or any of the townships thereof, for the purposes specified in this act, any other tax than such as hereinbefore provided for, any existing statute to the contrary notwithstanding.

No other tax levied for such purposes.

SEC. 3. This act to take effect and be in force from and after its passage, and until specially repealed.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 25, 1860.

S. MEDARY,

Governor.

CHAPTER CVII.

AN ACT Establishing Highways in the County of Brown.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas :*

SECTION 1. That all section lines in the county of Brown are hereby declared the center of all public highways, the same as though they were established by the local tribunals, under the pro-

Section lines
centers of high-
ways.

visions of law; but, if any person or persons are compelled to remove their fences or buildings, to make room for said highway[s,] then the county shall pay the damage sustained by reason of said removal, which damages shall be ascertained as prescribed by law in other cases.

How declared vacant.

SEC. 2. That the tribunal transacting county business may declare any of said highways vacant, under the regulations prescribed by law for vacating roads.

SEC. 3. This act to take effect and be in force from and after its passage, and all laws conflicting with the provisions of this act are hereby repealed.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 24, 1860.

S. MEDARY,

Governor.

CHAPTER CVIII.

A BILL to Establish a Territorial Road.

Be it enacted by the Governor and Legislative Assembly of Kansas:

Certain section line declared Territorial road.

SECTION 1. That the section line three miles south of the fourth standard parallel, from the Missouri State line to the Neosho river, be and is hereby declared a Territorial road.

SEC. 2. That this act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER CIX.

AN ACT Changing the Territorial Road running South-west from Wyandott,
one hundred and fifty miles towards Santa Fe.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas :*

SECTION 1. That A. D. Searl, W. R. Davis and N. C. Cradit Commissioners to
change location of
road.
be and the same are hereby constituted a board of commissioners
to change the location of the Territorial road running south-west
from Wyandott, one hundred and fifty miles towards Santa Fe,
between the west line of the town of Black Jack and the west
line of Prairie City; *Provided*, No cost shall accrue to the Proviso.
Territory from the appointment of said commissioners or said
change of road.

SEC. 2. This act to take effect and be in force from and after
its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER CX.

AN ACT to Change the Location of the Territorial Road from Wyandott,
South-west, towards Santa Fe, one hundred and fifty miles.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas :*

SECTION 1. That the Territorial road from Wyandott, south- Territorial road
from Wyandott -
changed.
west, towards Santa Fe, one hundred and fifty miles, located

under an act entitled "An Act to establish certain Territorial Roads," approved February 7, 1859, be and the same is hereby changed in its location as follows: Beginning at the point where the present survey of said road intersects the east line of the south-west quarter of section number four, (4,) township number fifteen, (15,) range number twenty-one, (21,) east; running thence south, on said east line, to the south line of said quarter section; thence west, on section line, to the point where said section line intersects the line of the original survey of said road.

SEC. 2. This act shall take effect and be in force from and after its passage.

R. B. SHEPARD, GUSTAVUS A. COLTON,
Attorney at Law, Speaker of House of Representatives.
 Anthony, Kans. W. W. UPDEGRAFF,
President of the Council.

Approved February 17, 1860.

S. MEDARY,
Governor.

R. B. SHEPARD,
Attorney at Law,
 Anthony, Kans.

CHAPTER CXI.

AN ACT to Prohibit Slavery in Kansas.

Be it enacted by the Governor and Legislative Assembly of Kansas Territory:

Slavery forever
 prohibited.

SECTION 1. That slavery or involuntary servitud[e,] except for the punishment of crime, whereof the party shall have been duly convicted, is and shall be forever prohibited in this Territory.

SEC. 2. This act shall take effect and be in force from and after its passage.

GUSTAV S A. COLTON,
Speaker of House of Representatives.
 W. W. UPDEGRAFF,
President of the Council.

This Bill, having been returned by the Governor with his objections thereto, and, after reconsideration, having passed by a

vote of two-thirds of both Houses, it has become a law this twenty-third day of February, eighteen hundred and sixty.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

CHAPTER CXII.

AN ACT to Provide for the Regulating of the Running at Large of Swine.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That all persons residing in the Territory of Kansas, and owning or having charge of swine in said Territory, from and after the first day of April, A. D. 1860, shall keep said swine from running at large.

Persons owning swine to keep same confined

SEC. 2. That, if any swine shall be suffered to run at large in said Territory, and shall trespass upon the land of any person or persons, the owner or person having possession of such swine shall be liable for all damages the owner or occupant of such land may sustain by reason of such trespass.

Owner liable for damages by swine.

SEC. 3. That such damages shall be recoverable in a civil action, before any justice of the peace of the proper township.

Recoverable in action at law

SEC. 4. That, if any swine shall be found running at large in said Territory, after the first day of April, A. D. 1860, it shall be lawful for any person to take up such swine as estrays.

Any person may take up swine at large

SEC. 5. That it shall be the duty of the person or persons taking up any swine, under the provisions of this act, within three days after such taking up, to post up at least three written or printed notices of the said taking up, with a description of such swine, so taken up, in three public places in the township in which said swine may have been taken up, and shall file a copy of said notice with one of the justices of the peace of the township, and shall certify, under oath, the same to be a true description of the swine taken up by him.

To give what notice of taking up.

File a copy.

SEC. 6. That the person or persons taking up swine, under the provisions of this act, shall be allowed twenty-five cents for each

Allowed what compensation

swine, so taken up, and a reasonable compensation for taking care of the same.

Owner may have same within sixty days, by paying charges.

SEC. 7. That, if any swine shall be taken up, under the provisions of this act, and the owner of the same shall, within sixty days of the said taking up, prove the same to be his, and shall pay the charges on the same, he shall have possession of the same.

If owner does not take swine and pay charges, title vests in taker up.

SEC. 8. That, if the owner of any swine, taken up under the provisions of this act, shall fail or refuse to prove the same to be his, or shall refuse to pay the charges on the same, as provided in this act, within sixty days after the said swine shall have been taken up, complete title shall vest absolutely in the person or persons taking up the same.

Drovers may drive swine along highways, being responsible for damages.

SEC. 9. That nothing herein contained shall be so construed as to prevent drovers or other persons from driving swine from one place to another, along any public highway, the owner or owners, being responsible for all damages that any person or persons may sustain in consequence of the driving of such swine.

Failure to comply with this act.

SEC. 10. Any person taking up any swine under any provision of this act, and failing to comply therewith, shall be liable to the owner of such swine in a sum, to be recovered, in any court having jurisdiction over the same, for all damages such owner or owners may sustain by reason of such taking up.

Not to apply to certain counties.

SEC. 11. The provisions of this act shall not extend to Jefferson, Wyandott, Leavenworth, Atchison and Doniphan counties.

Acts repealed.

SEC. 12. That an act entitled "An Act to provide for the Regulating of the Running at Large of Swine," approved February 8, 1858, and all other acts or parts of acts conflicting with the provisions of this act are hereby repealed.

SEC. 13. This act to take effect and be in force from and after the first day of April, 1860.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved January 28, 1860.

S. MEDARY,

Governor.

CHAPTER CXIII.

AN ACT Supplemental and Amendatory to "An Act to Provide for the Running at Large of Swine," approved January the 28th, 1860.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That so much of section eleventh of said act as relates to the exemption of the county of Atchison from the operations of said act, be so amended as only to apply to the townships of Shannon, Walnut and Mount Pleasant, in said county, and none other.

Only part of
Atchison county
exempted.

SEC. 2. This act to be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 24, 1860.

S. MEDARY,

Governor.

CHAPTER CXIV.

AN ACT to Provide for the Assessment and Collection of Taxes.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. All property, real and personal, all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, the property of corporations, now existing or hereafter created, and the property of all banks or banking companies, now existing or hereafter created, and of all bankers shall be subject to taxation ; and such property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, or the value thereof, shall be entered on the list of taxable property, for that purpose, in the manner prescribed by law.

Property subject
to taxation.

Meaning of terms

SEC. 2. Real property shall, for the purpose of taxation, be construed to include the lands only, excluding the crops and improvements thereon, except in cities and incorporated towns and villages, and all mines, minerals and quarries in and under the same; and the terms "land" and "real estate," when used in this chapter, shall be construed as having the same meaning as real property.

Same.

SEC. 3. The terms "personal property" and "personal estate," as used in this chapter, shall have the same meaning and shall, for the purpose of taxation, be construed to include all goods and chattels and every tangible thing, being the subject of ownership, whether animate or inanimate; moneys and effects; all boats and vessels, whether at home or abroad, and all capital invested therein; all debts due or to become due from solvent debtors, whether on account, contract, note, mortgage or otherwise; all public stock, and stock or shares in all banks or incorporated companies, and such portion of the capital of incorporated companies, liable to taxation on their capital, as shall not be invested in real estate.

Same

SEC. 4. The term "money" or "moneys," whenever used in this act, shall be held to mean and include gold and silver coin, and current bank notes, in actual possession, and every deposit which the person owing, holding in trust, or having the beneficial interest therein is entitled to withdraw, in money, on demand.

Property exempt from taxation.

SEC. 5. The following property shall be exempt from taxation: First, All property, real and personal, of the United States and of this Territory. Second, All public or corporate property of the several counties, cities, villages, towns and school districts in this Territory, used or intended for corporate purposes, except land bid off for counties at tax sales. Third, The personal property of all literary, benevolent, charitable and scientific institutions incorporated within this Territory, and such real estate, belonging to such institutions, as shall be actually occupied by them for the purpose for which they were incorporated. Fourth, All houses of public worship, and the lots on which they are situated, and the pews or slips and furniture therein; every parsonage, all burying grounds, tombs and rights of burial; but any part of any building, being a house of public worship, which shall be occupied and used as a store or shop, or for any other purpose than for public worship or schools, shall be taxed upon the cash valuation thereof, the same as personal property, to the owner or occupant; and the taxes thereon shall be collected in

the same manner as the taxes on personal estate. Fifth, All public libraries and the real and personal property belonging to or connected with the same. Sixth, The property of all widows, to the value of five hundred dollars.

SEC. 6. Land contracts, to be sold by the Territory and not conveyed, shall be assessed to the person holding the contract or certificate of purchase for the same, or the occupant; but such land shall be assessed as personal property, and not as real estate; and the tax thereon shall be collected in the same manner prescribed for the collection of taxes upon personal property; but the land shall, in no case, be returned or sold for the non-payment of taxes, and the Territory shall, in no case, convey such lands until all the taxes upon the same shall be paid.

Land contracts
assessed to per-
son holding.

Not conveyed un-
til tax paid

SEC. 7. Every person of full age and sound mind, not a married woman, shall list the real property of which he or she is owner, situated in the county in which he or she resides; the personal property of which he or she is owner, and for which he or she is liable to pay taxes according to this act; and all moneys in his or her possession, and all moneys invested, loaned or otherwise controlled by him or her, as the agent or attorney, or on account of any other person or persons, company or corporation whatever; and all moneys deposited, subject to his or her order, check or draft; and credits due from or owing by any person or persons or body corporate, whether in or out of such county, the property of every ward, shall be listed by his or her guardian; of every minor child, idiot or lunatic, having no other guardian, by his or her father, if living—if not, by his or her mother or the person having such property in charge; of every wife, by her husband, if of sound mind—if not, by herself; of every person for whose benefit property is held in trust, by the trustee; of every estate of a deceased person, by the executor or administrator; of corporations, whose assets are in the hands of receivers, by the receivers; of every company, firm, body politic or corporate, by the president or principal accounting officer, partner or agent thereof.

Persons to list
property.

Listed by whom,
in case of disabil-
ity.

SEC. 8. Every person liable to pay a tax according to this act shall make out and deliver to the assessor, when required, a statement, verified by oath or affirmation, of all the personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, in his possession or under his control, at the time notice was given him, by the assessor, to make out such statement, and which, by the provisions of this act, he

Persons to make
out statement of
personal property
when required.

is required to list for taxation, either as owners or holders thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner or agent.

May deduct debts.

SEC. 9. From the statement mentioned in the preceding section, the amount of all just debts due from such person or owing by him shall be deducted, and he shall only be liable for taxation on the balance, subject to the provisions of this act.

If there be no such property.

SEC. 10. If there be no articles of personal property, moneys or credits, investments in bonds, stock, joint stock companies or otherwise, which such person would be, by this act, required to list, on his own account or the account of others, he may set forth such facts to the assessor, who shall require the oath or affirmation of such person to the truth of the same.

Property how valued.

SEC. 11. Each parcel of real property, outside of any town, city or village, mentioned in section second, shall be valued at its true value in money, excluding the value of the crops growing thereon and improvements; but the price for which such real property would sell at auction or at a forced sale shall not be taken as a criterion of such value. Personal property of every description shall be valued at the usual selling price of similar property at the time and place of listing; and, if there be no usual price, then at the price that is believed could be obtained therefor in money.

DUTIES OF ASSESSOR.

Duties of assessor

SEC. 12. Between the first day of May and the first day of August, in each year, the county assessor, in the several counties in this Territory, shall ascertain, by diligent inquiry, the names of all taxable persons in his county, and, also, all their taxable personal property, owned on the first day of May, and all real estate therein, and shall assess and appraise the same as herein provided, and shall, for that purpose, require of every person liable to taxation, a statement, verified by his oath or affirmation, of all the personal property, moneys, credits, investments in bonds, stock, joint stock companies or otherwise, in his possession or under his control, on said first day of May.

If any person refuse to make statement, &c.

SEC. 13. In case where any person shall refuse to make out and deliver to the county assessor a statement of personal property liable to taxation, as provided by this act, or shall refuse to take and subscribe an oath or affirmation as to the truth of such statement or any part thereof; or, in case of sickness or absence of such person, the assessor shall, in every such case, proceed to ascertain the number of each description of the seve-

ral articles of personal property enumerated in the fifteenth section of this act, and the value thereof; the value of personal property subject to taxation, other than enumerated articles, and the value of moneys and credits, investments in bonds, stocks and joint stock companies or otherwise; and, to enable him so to do, he is hereby authorized and required to examine, on oath or affirmation, any person or persons whom he may suppose to have a knowledge of the articles or value of the same.

SEC. 14. If the assessor shall be unable to obtain positive evidence of the items and value of such personal property, moneys and credits, he shall assess and value such property from general reputation and such knowledge of facts and circumstances as he shall be able to obtain. If unable to obtain items.

SEC. 15. Such statement shall truly set forth: First, The number of horses and the value thereof. Second, The number of neat cattle and the value thereof. Third, The number of mules and asses and the value thereof. Fourth, The number of sheep and the value thereof. Fifth, The number of hogs and the value thereof. Sixth, Every pleasure carriage, of whatsoever kind, and the value thereof. Seventh, The total value of all other articles of personal property which such person is, by this act required to list: *Provided*, That, if such person shall exhibit to the assessor the animals or other articles of personal property above enumerated, the value of such property may be determined by the assessor, without the oath of the person required to list such property. Eighth, Every gold and silver watch and the value thereof. Ninth, Every piano forte or other musical instrument and the value thereof. Tenth, The value of goods and merchandise which such person is required to list as a merchant. Eleventh, The value of property which such person is required to list as a banker, broker or stock jobber. Twelfth, The value of the materials and manufactured articles which such person is required to list as a manufacturer. Thirteenth, The value of moneys and credits required to be listed, including all book accounts. Fourteenth, The value of all moneys invested in banks, stocks, joint stock companies or otherwise, which such person is, by this act, required to list. Statement of assessor set forth what. Provide.

SEC. 16. The assessor shall, upon demand, deliver to any owner of property assessed for taxation, a copy of the assessment thereof, signed by himself; and a copy of the certificate mentioned in the preceding section, when taken in the absence of the person assessed, shall be left with some member of the family over twelve years of age. Assessor to give copy to owner when demanded. Copy left with member of family.

File certificate.

SEC. 17. The assessor shall file and preserve such certificate for future reference, keeping those of each township separate, but shall enter the total valuation in his assessment roll.

If false certificate delivered.

SEC. 18. If any person shall deliver a false or fraudulent certificate to any assessor, the property therein specified and all that ought to have been listed therein shall be taxed triple, and the offender shall, also, be subject to indictment for the fraud, and may be fined in any sum not exceeding five hundred dollars nor less than fifty.

Register to make out abstract of deeds, &c., for clerk.

SEC. 19. The register of deeds of each county shall, in the month of April, in each year, make out an abstract, in alphabetical order, of all deeds and other conveyances of land recorded in his office during the preceding year, showing the names of the acquirers and from whom acquired, the quantity and description of the land, and shall deliver such abstract to the county clerk and take his receipt therefor.

Clerk to furnish papers to assessor.

SEC. 20. The county clerk shall deliver to the assessor, on or before the first day of May, in every year, the assessment roll of the preceding year, the abstract of conveyances furnished by the register of the county, and the list of taxable lands, and take his receipt therefor; and the assessor, as soon as he shall have completed his assessment and made his assessment roll for the year, shall return the whole of such papers and documents to the clerk.

Assessor to make tax roll.

SEC. 21. The assessor, on examination and comparison of the list of property delivered by persons liable to taxation [with] the abstract of conveyances furnished by the register, shall make a correct list of all the taxable property in his county, to be called the tax roll.

Style of same.

SEC. 22. The tax roll shall contain the names, in alphabetical order, of all persons to whom property has been assessed therein. It shall be in tabular form, with a suitable caption, in separate columns, for the names of owners, the description of lands, denoting the section, town, range and other subdivisions, and the lot and block or street in any city, and the total value of personal property and total value of all property assessed to each person, and the whole amount chargeable to each person, and such other columns as may be found necessary and convenient.

If any property omitted.

SEC. 23. If, by any means, hereafter, any tract of land or town lot shall be omitted in the assessment of any year or series of years, and not put upon the tax roll, the same, when discovered, shall be assessed by the assessor for the time being, and placed upon his tax roll, before the same is returned to the county

clerk, with all arrearages of tax which ought to have been assessed and paid in former years, charged thereon.

SEC. 24. The assessor shall make out and return to the county clerk, on or before the first day of August, a true copy of his tax roll.

Assessor make
return of roll
when.

BOARD OF EQUALIZATION.

SEC. 25. The commissioners or a majority of them shall form a county board for the equalization of the real property of their county. They shall meet on the third Tuesday of August, of each year, in the county clerk's office, and shall examine the assessment roll of the current year and equalize the valuation of the real estate, so that each tract or lot shall be entered on the tax roll at its true value; and shall make such changes in the valuation of personal property, as shall be right and just; and, for this purpose, they shall observe the following rules: First, They shall raise the valuation of such tracts and lots of real property as, in their opinion, have been returned below their true value, to such price or sum as they may believe to be the true value thereof, agreeable to the rules prescribed by this act, for the valuation thereof. Second, They shall reduce the valuation of such tracts and lots as, in their opinion, have been returned above their true value, as compared with the average valuation of the real property of such county, having due regard to the relative situation, quality of soil, improvements on lots in towns, cities and villages, natural and artificial advantages possessed by each tract and lot. Third, They shall not reduce the aggregate value of the real property of the county, as returned by the assessor, with the additions made thereto by the county clerk, as hereinbefore required. The county clerk shall keep an accurate journal or record of the proceedings and orders of said board.

Board of equali-
zation meet when
and do what.

Rules to be ob-
served.

SEC. 26. The county clerk shall, immediately after the board shall have equalized and corrected the assessment roll, make an abstract thereof, and forward such abstract to the auditor of the Territory, before the first day of September. Such abstract shall contain: First, The total number of acres of taxable land in the county. Second, The aggregate valuation thereof. Third, The average value per acre. Fourth, The number of towns lots and aggregate valuation thereof. Fifth, The aggregate valuation of personal property. Sixth, The total valuation of all taxable property.

County clerk to
forward abstract
to auditor of Ter-
ritory.

SEC. 27. The county commissioners, at their meeting in October, in each year, shall estimate and determine the amount of

Commissioners to
estimate money to
be raised.

money to be raised by tax for county purposes ; also, the amount to be raised for the support of schools ; also, all other taxes which they may be required by law to levy.

Trustees of townships may determine rates.

SEC. 28. The trustees of the several townships and such other officers and authorities as shall be legally empowered to determine the rates or amount of taxes to be levied for the various purposes authorized by law, shall determine the amount thereof annually, previous to the tenth day of September, and make a return thereof to the county clerk, on or before the twentieth day of September.

Council of municipal corporation to certify to clerk of county per centage levied by them.

SEC. 29. That the council of any municipal corporation is hereby authorized and required to cause to be certified to the county clerk, on or before the twentieth day of September, annually, the per centage by them levied on the real and personal property in said corporation, as valued and returned on the assessment roll of the county ; and the county clerk is hereby authorized and required to place the same on the tax roll of said county, in a separate column or columns ; and said taxes shall be collected by the county treasurer and paid into the county [city] treasury of said corporation, with the same power and restrictions, and under regulations, in every respect, as are by law provided for the collection of other taxes: *Provided*, That nothing in this act shall be so construed as to prevent any city that may choose to do so, from levying and collecting such taxes as they may by ordinance provide ; but such municipal corporation shall, in no case, sell lands for taxes ; but such municipal corporation shall cause to be certified to the county clerk, a list of all the lands and town lots on which the taxes have not been paid, and the taxes thereon, before the first day of March, annually, which taxes, so certified, the county clerk shall place upon the tax roll of the county, in a separate column, and said taxes shall be collected in like manner as the other taxes on said tax roll. Nothing in this section shall be construed to exempt the property within the limits of any municipal corporation from being taxed for county and Territorial purposes, as other property outside thereof.

Clerk place same on tax roll.

Collected by county treasurer.

Proviso

Clerk to make out list of taxable property.

SEC. 30. The county clerk shall make out, in a book to be prepared for that purpose, a complete list or schedule of all the taxable property in his county, and the value thereof, as equalized, arranged in the following manner: Each separate tract of real property in each township of his county, other than town property, shall be contained in a line or lines opposite the names of the owner or owners, which shall be arranged in alphabetical

order ; each separate tract of real property in each town or city, shall be set down in a line or lines opposite the name or names of the owner or owners, arranged in alphabetical order ; the value of all personal property will be set down in a column opposite the name of the owner ; the names of persons in each township, who are not residents of an incorporated town or city, shall be set down in alphabetical order, in one list ; and the names of persons who are residents of an incorporated town or city shall be entered in another list, in alphabetical order.

SEC. 31. The county clerk, immediately after the October meeting of the county commissioners, shall proceed to determine the sums to be levied upon each tract or lot of real property and upon the amount of personal property, in the name of each person, company or corporation, which shall be assessed equally on all real and personal property, subject to the same taxes, and set down each tax in a separate column ; he shall complete the same, and attach his certificate thereto, and deliver it to the county treasurer between the first and tenth days of November, and shall charge the treasurer with the amount of the respective taxes assessed on the tax roll.

County clerk to determine am't of tax to be levied on each person, company and corporation.

SEC. 32. As soon as the treasurer shall have the tax roll of his county, he shall cause notices to be posted up at each place of holding elections in the county; and, also, to be published in some newspaper having general circulation in the county, for four successive weeks, stating in said notices the amount of tax charged for Territorial, county, township, school, city or other purposes, on each hundred dollars valuation ; also, on what day the treasurer or his deputy shall attend at the usual place of holding elections in each township, for the purpose of receiving such taxes ; and the treasurer or his deputy shall attend, on the day and at the place named in such notice.

Treasurer to give notice of amount of tax on \$100, and time of collecting same

SEC. 33. When the treasurer shall receive any tax, he shall give a receipt therefor ; if upon land or a town lot, the receipt shall describe the land as it is described in the tax roll ; and, if upon personal property, it shall state the valuation thereof.

Give what receipt for taxes.

SEC. 34. On all taxes remaining unpaid after the first day of January, there shall be a penalty or ten per centum added and collected, in like manner as other taxes.

Ten per centum added when

SEC. 35. All lands and town lots, on which the taxes shall not have been paid before the first day of March, in each year, shall be subject to sale, in the manner hereinafter provided.

Subject to sale when

SEC. 36. The county treasurer shall, immediately after the

Treasurer to make out list of delinquents and time of sale of lands.

day specified in the preceding section, make out [a list] of all the lands and town lots, describing such lands and town lots, as the same are described on the tax roll, with an accompanying notice, stating that so much of each tract of land or town lot, described in said list, as may be necessary for that purpose, will, on the first Tuesday of May next thereafter and the next succeeding days, be sold by him, at public auction, at some public place, naming the same, at the seat of justice of the county, for the taxes, penalty and charges thereon.

Published and posted.

SEC. 37. The county treasurer shall cause the said list and accompanying notice to be published in some newspaper of general circulation in his county, once in each week, for four successive weeks prior to the day of sale, and shall, also, cause to be posted up copies of said list and notice in at least four public places in his county, and one in some conspicuous place in his office.

Printer make affidavit of publication when

SEC. 38. Every printer who shall publish such list and notice shall, immediately after the last publication thereof, transmit, to the treasurer of the proper county, an affidavit of such publication, made by such person to whom the fact of publication shall be known; and no printer shall be paid for such publication who shall fail to transmit such affidavit within six days after the publication thereof. The county treasurer shall, also, make or cause to be made an affidavit or affidavits of the posting of such list and notice as above required, all of which affidavits shall be carefully preserved by him and deposited as hereinafter specified.

Treasurer same of posting.

To be filed.

Commence sale when and continue how long.

SEC. 39. On the day designated in the notice of sale, the county treasurer shall commence the sale of those lands and town lots on which the taxes penalty and charges have not been paid, and shall continue the same from day to day, (Sundays excepted,) until so much of each parcel thereof shall be sold, as shall be sufficient to pay the taxes, penalty and charges thereon, including the cost of advertising and the fees for selling:

Bidder off of smallest quantity purchaser.

SEC. 40. The person, at such sale, offering to pay the taxes, penalty, and charges against any one person or firm, in any county, for the smallest quantity of land, in a square, off [from] the north-east corner of the tract of land situate farthest north-east in such county, belonging to the person or firm against whom said tax is or shall be chargeable, shall be the purchaser of such quantity, located as aforesaid.

Treasurer may require immediate payment.

SEC. 41. The county treasurer may, in his discretion, require immediate payment of every person to whom any such parcel of land shall be sold, and, in all cases where payment is not made

in twenty-four hours after the bid, he may declare such bid cancelled, and sell the land again, or may sue the purchaser for the purchase money, and recover the same, with costs and ten per centum damages; and any person neglecting or refusing to make such payment shall not be entitled, after such neglect, to have any bid made by him received by the treasurer, during the sale.

SEC. 42. If any parcel of land cannot be sold for the amount of tax, penalty and charges thereon, it shall be bid off by the county treasurer, for the county, for such amount. If land cannot be sold, bid off by treasurer for county.

SEC. 43. The county treasurer shall give to each purchaser, on the payment of his bids, a certificate, dated the day of the sale, describing the lands purchased, the amount paid therefor, and the time when the purchaser will be entitled to a deed, which certificate shall be assignable; and any person's interest therein may be transferred by a written assignment indorsed upon, or attached to the same, and such assignment shall have the same force and effect as the assignment of bonds for the conveyance of lands; and such certificate, if acknowledged by the treasurer and certified by a person authorized to take the acknowledgment of deeds, may be recorded in the office of register of deeds of the proper county. Each purchaser to receive a certificate of purchase. May be recorded, when.

SEC. 44. If any lands or town lots shall be bid off for the county, the treasurer shall make a certificate to the county, similar to that specified in the preceding section, which certificate shall be assignable by the county treasurer in like manner as those given to other purchasers; and such certificates shall be subject to purchase by any person offering to pay therefor a sum equal to the cost of redemption at any [that] time. If bid off for county, certificate same

SEC. 45. When any land or town lot is offered for sale for any taxes, it shall not be necessary to sell it as the property of any person or persons; and no sale of any land or town lot for taxes shall be considered invalid on account of its having been charged on the roll in any other name than that of the rightful owner; *Provided*, That such land or town lots shall be, in other respects, sufficiently described on the tax roll, and the taxes for which it is sold be due and unpaid at the time of such sale. Need not be sold as property of any person, &c. Proviso.

SEC. 46. The county treasurer shall, immediately after the close of the sale of lands for taxes, record a list of all such lands and town lots, in a book prepared for that purpose. Said list shall contain: First, The number of the certificate of sale, and date thereof. Second, The name of the owner or owners, if known. Third, The description of each tract of land or town Treasurer to make list of land and lots sold, containing what.

lot. Fourth, The name of the purchaser. Fifth, The total amount of taxes, penalty and charges at the time of sale. Sixth, Columns for amount of subsequent taxes paid by the purchaser and date of payment. Seventh, Name of person redeeming, and date of redemption. Eighth, Total amount paid for redemption. Ninth, Name of person to whom deeded and date of deed. The county clerk shall, also, make a duplicate thereof.

Clerk make duplicate.

Treasurer to file papers relating to tax sale.

SEC. 47. The county treasurer shall file with the county clerk all affidavits, notices and papers in reference to such tax sale, to be preserved by him.

Property bid off for county, still liable for taxes, but not sold for same.

SEC. 48. All lands and town lots, bid off for the county, at any tax sale, shall continue liable to be taxed, in the same manner as if they were the property of individuals, and such taxes, penalty and charges, shall be a lien upon such land and town lots; but no lands or town lots, so bid off for the county, shall be sold for any taxes levied subsequent to such bid, until it shall have been redeemed, or shall be sold by the county, or the tax certificate issued to the county, shall have been assessed. If the subsequent taxes shall not be paid by any other person, such lands and town lots shall be advertised with, and in the same manner as the other lands and town lots on which the taxes are not paid, and shall be subject to the same penalties and charges as if they should be sold. The treasurer shall enter such taxes, penalty and charges, in the book of tax sales, of the year in which such lands or town lots were sold to the county, opposite such lands or lots, and such taxes, penalties and charges, shall constitute an additional lien.

If subsequent taxes not paid.

Subsequent charges an additional lien.

Person holding certificate make tax payments how.

SEC. 49. Any person desiring to pay any subsequent taxes on any lands or town lots, for which he holds the tax certificate, shall produce such certificate to the treasurer, who shall indorse thereon the amount of such subsequent tax, and the date of payment thereof; and the treasurer shall, also, enter said amount and the date of payment thereof, in the book of tax sales, opposite such land or town lot.

REDEMPTION OF LAND SOLD FOR TAXES.

Lands may be redeemed within three years, how.

SEC. 50. Any person may, at any time within three years from the day of sale, redeem any land or town lot, or any part thereof, or interest therein, by paying to the treasurer of the county where such land was sold, for the use of the purchaser, his heirs and assigns, the amount for which said land or lot was sold, and all subsequent taxes and charges thereon paid by the purchaser or

his assigns, in accordance with the provisions of the preceding section of this act, or such proportion thereof as the part or interest redeemed shall amount to, with interest at the rate of twenty-five per cent. per annum on the amount of purchase money from the date of sale, and the same rate on all subsequent taxes paid thereon as provided above, from the date of the payment of the same.

SEC. 51. The lands of minors, or any interest they may have in any lands sold for taxes, may be redeemed at any time before such minors become of age, and during one year thereafter; and the lands of idiots, insane persons, married women and widows, so sold, or any interest they may have in the same, may be redeemed, at any time within five years after such sale; and stock [such] redemption shall be made in the manner provided in the preceding section of this act.

Lands of minors, idiots, &c., may be redeemed, when.

SEC. 52. Upon the redemption of any land or lot sold for taxes, the treasurer shall execute to the person so redeeming, a certificate, specifying the name of the purchaser, the land or lot redeemed, and the amount of redemption money paid, and shall enter into the book of tax sales, opposite such land or lot, the name of the person redeeming, the date of redemption, and the amount paid therefor, which certificate, before it shall have any validity, shall be certified by the county clerk, who shall make a like entry on his duplicate.

Persons redeeming, receive certificate.

SEC. 53. The treasurer shall, on demand of any person entitled to redemption money in his hands, pay the same to such person, on his surrendering to him the tax certificate of such land or lot as has been redeemed; *Provided*, That if only a portion of the lands or lots described in the tax certificate shall have been redeemed, the treasurer shall indorse on such certificate the portion redeemed, and the amount of money paid to such person, and shall take a receipt therefor.

Treasurer to pay redemption money to person surrendering certificate.

Proviso.

SEC. 54. If there be a loss or wrongful detention of such certificate, and the land therein described shall have been redeemed, the owner thereof may exhibit to the treasurer evidence of such loss or detention, and, upon his making the same satisfactorily to appear to the treasurer, and upon his executing to him a bond, with sufficient security, that such person will refund such redemption money, with twelve per cent. interest thereon, if any person shall thereafter show his right thereto, such treasurer shall pay such redemption money to the person so executing such bond.

If certificate wrongfully detained or lost

Treasurer to give notice of time limited for redemption of lands how.

SEC. 55. The county treasurer, at least six months before the expiration of the time limited for redeeming lands as aforesaid, shall cause to be published, in some newspaper of general circulation in his county, once a week, for twelve successive weeks, a list of all unredeemed lands and town lots, describing each tract or lot, as the same was described on the tax roll, stating the name of the person to whom assessed, if any, and the amount of taxes charged, and interest, calculated to last day of redemption, due on each parcel, together with a notice, that unless such lands be redeemed on or before the day limited therefor, specifying the same, they will be conveyed to the purchaser. If there be no paper of general circulation within the county, he shall cause to be posted, for the same length of time, such list and notice, in at least four public places in the county, one of which shall be in some conspicuous place in his office.

If lands not redeemed, deeded to certificate holder.

SEC. 56. If any land, sold for taxes, shall not be redeemed within the time specified by law, the county clerk of the county where the same was sold, shall, on the presentation to him of the certificate of sale, execute, in the name of his county as county clerk, under his hand and seal, to the purchaser, his heirs and assigns, a deed of the land so remaining unredeemed, and shall acknowledge the same, which shall vest in the grantee an absolute estate in fee simple in such lands, subject, however, to all unpaid taxes and charges which are alien thereon; and such deed, duly witnessed and acknowledged, shall be *prima facie* evidence of the regularity of such proceedings, from the valuation of the land by the assessor, inclusive, up to the execution of the deed, and may be recorded with the like effect as other conveyances of land.

Suit for recovery commenced within three years.

SEC. 57. Any suit or proceeding for the recovery of lands sold for taxes, except in cases where the taxes have been paid on the land redeemed, as provided by law, shall be commenced within three years from the time of recording the tax deed of sale and not thereafter; *Provided*, This section shall not be construed to interfere with the provisions of section fifty-one of this act.

Proviso.

No sale or deed valid, if taxes paid prior to.

SEC. 58. No sale of land for taxes, and no deed made in pursuance thereof, shall be of any validity, if the taxes for which the same is sold shall have been paid prior to such sale.

Land not sold when.

SEC. 59. If the county treasurer shall discover, before the sale of any land for taxes, that on account of any irregular assessment, or from any other error, such land ought not to be sold, he shall not offer the same for sale; and if, after any certificate

shall have been granted upon such sale, the county clerk shall discover that, for any error or irregularity, such land ought not to be conveyed, he shall not convey the same; and the county treasurer shall, on the return of the tax certificate, refund the amount paid therefor on such sale, and all subsequent taxes and charges paid thereon by the purchaser or his assigns, out of the county treasury, with interest on the whole amount at the rate of six per cent. per annum.

Not conveyed,
when.

SEC. 60. That if, after the conveyance of any land sold for taxes, it shall be discovered that the sale was invalid, the county commissioners shall cause the money paid therefor on the sale and all subsequent taxes and charges paid thereon by the purchaser or his assigns, to be refunded, with interest on the whole amount at the rate of six per cent. per annum, upon the delivery of the deed to be canceled; and, in all such cases, when the county treasurer shall have offered to the person entitled thereto his money, as aforesaid, and such person shall refuse to receive it and cancel the deed, he shall not be entitled to receive any interest on the money so paid by him, after the day of such offer and refusal; nor shall any recovery ever be had against the county on the covenant of such deed.

If sale invalid,
money refunded.

If money refused.

MISCELLANEOUS PROVISIONS.

SEC. 61. All taxes on personal property, that shall remain unpaid after the first day of May, may be collected by distress in the following manner: The county treasurer shall, before the first day of June, issue a warrant, under his hand, directed to the sheriff of the county, commanding him to levy the amount of such unpaid taxes, together with his fees for collecting the same, of the goods and chattels, lands and tenements of the person to whom such taxes were assessed, and to pay the same to the county treasurer, and return such warrant within sixty days from the date thereof; *Provided*, That if the treasurer shall know, or if any one to whom such fact is known, or if the person against whom such unpaid tax is charged, shall make affidavit to the treasurer or any person qualified to administer oaths, that such person is unable, by reason of poverty or infirmity, to contribute to the public charge, such warrant shall not be issued nor executed. The treasurer shall note such fact on the tax roll opposite such tax, and shall preserve all such affidavits and shall submit them, together with uncollected taxes, to the county commissioners. For the purposes specified in this section, the county treasurer is hereby authorized to administer oaths.

Unpaid taxes on
personal property
collected how.

Warrant not to
issue, when.

Treasurer to note
same.

Sheriffs' fees.

SEC. 62. For the services specified in the preceding section, sheriffs shall be entitled to the same fees as are allowed by law to sheriffs on executions.

Payments made to Territorial treasurer, when.

SEC. 63. That on or before the fifteenth day of January, in each year, the several county treasurers shall pay to the Territorial treasurer, in gold or silver coin or in Territorial warrants, the amount of Territorial tax received by them, on or before the first day of January; and, before the fifteenth day of May in each year, they shall pay the whole amount of Territorial taxes charged to their respective counties, which tax, when so paid, shall be credited by the Territorial treasurer to the county so paying the same, and the Territorial treasurer shall give to the county treasurer a receipt therefor.

Take receipt for same.

County treasurer failing to pay over same,

SEC. 64. If any county treasurer shall fail to pay into the Territorial treasury any moneys in his hands for that purpose, within the time prescribed by law, he shall, in addition to other penalties, be liable to the following: If he fail for the space of ten days, he shall forfeit to the Territory ten per cent. of the amount withheld, and if he fail for thirty days after such specified time, he shall forfeit his office as treasurer and be deemed a defaulter; *Provided*, That [if] he can show a sufficient reason for such delay, he shall not be subject to any penalty.

Proviso.

If land conveyed even with or prior to warrant for tax roll, who pays tax.

SEC. 65. As between the grantor and grantee of any land where there is no express agreement as to which shall pay the taxes that may be assessed thereon, if such land is conveyed even with or prior to the date of the clerk's warrant, to the tax roll, authorizing the collector [collection] of such taxes, then the grantee shall pay the same; but, if conveyed after that date, then the grantor shall pay them.

Records evidence in judicial proceedings.

SEC. 66. The entries in the county treasurer's books, the assessment rolls and warrant thereto attached, and a list of the lands sold for taxes, recorded by the treasurer, shall be *prima facie* evidence in all judicial proceedings.

Board of equalization authorized to enter on tax roll lands omitted
Proviso.

SEC. 67. The county board of equalization shall have power to enter on the tax roll any lands which may have been omitted by the assessor; *Provided*, The same shall have been entered or pre-empted before the first day of their session, and give the same a fair and just valuation.

If lands taxed which are not taxable legally.

SEC. 68. If any lands shall have been taxed which were not taxable legally, the treasurer shall omit to collect the same, on the owner's filing with him an affidavit or other proof of the fact; and the treasurer shall make a note thereof opposite such tax,

and shall return the description of such lands and the amount of taxes thereon, together with such affidavits or proofs relating to the same as have been filed with him, to the county commissioners, at his annual settlement with them; and said commissioners shall cancel such tax, and credit him with the amount thereof on settlement.

SEC. 69. If any person, within two years after the payment of any tax by him, can satisfactorily show to the county commissioners that the same was illegally assessed, the commissioners shall order the same to be repaid by the county treasurer. If illegally assessed, redemption made within two years

SEC. 70. That, if any county treasurer shall unavoidably omit or fail to sell any lands or town lots for unpaid taxes, on the first Tuesday of May, he shall advertise and sell such land or town lots on the first Tuesday of September next ensuing, and such advertisement and sale shall conform, in all respects, to the provisions of this act, and shall be as binding and valid as like sale made on the first Tuesday of May; *Provided*, That if such lands or town lots have been advertised as provided by law, and have not been sold by reason of any injunction or judicial proceedings to stop such sale, after such injunction shall have been dissolved, it shall only be necessary for the treasurer to cause to be published, in some newspaper of general circulation in his county, a notice, stating that such lands and lots as were not sold by reason of such injunction, [shall be sold] at such time and place as shall therein be specified, which time shall not be less than ten days from the date of publication; and it shall not be necessary to publish in such notice the description of such land or lots. If lands not sold in May. Proviso.

SEC. 71. In addition to any fees elsewhere specifically allowed for services to be performed under the requirements of this act, the following shall be allowed, to wit: To the county clerk, for every deed of land sold for taxes, seventy-five cents; for each additional parcel of land described therein, after the first, five cents; to the person taking and certifying the acknowledgment of the same, twenty-five cents; to said clerk, on certificate of redemption, twenty-five cents; for each additional parcel of land described therein after the first, five cents; to the county treasurer, for a certificate of sale of lands, twenty-five cents; for each additional parcel of land described therein, five cents; to the printer who shall publish any notice of sale for taxes, for each tract other than town lot, twenty-five cents; for each town lot, ten cents for all the insertions; to the printer who shall publish any notice of the time when the redemption of lands sold for Fees of officers and persons concerned.

taxes will expire, for each tract or lot of land, thirty cents for all the insertions.

Territorial board
of equalization
meets when.

SEC. 72. The meeting of the Territorial board of equalization shall be on the second Monday of August, annually.

Acts repealed.

SEC. 73. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 74. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER CXV.

AN ACT to Extend the time for Paying Taxes.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Time extended for
collection of
county and town-
ship taxes

SECTION 1. That the time allowed for the collection of county and township taxes for A. D. 1859, (except taxes levied by cities and school districts,) shall be and hereby is extended to the first day of June, A. D. 1860, and the time fixed by law for doing all other things connected with the collection of the taxes aforesaid, is extended to as many days as there are between the time fixed by law for the payment of taxes, and said first day of June, A. D. 1860; *Provided, always,* That nothing in this act shall be so construed as to release the securities of any officer concerned in the collection of taxes.

Proviso.

Not to apply to
what counties.

SEC. 2. That this act shall not apply to the counties of Jefferson, Wyandott, Pottawatomie, Doniphan and Leavenworth.

SEC. 3. That this act shall take effect and be in force from Acts repealed. and after its passage, and all provisions of law contravening the provisions of this act are hereby suspended until June 1st, A. D. 1860.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 2, 1860.

S. MEDARY,
Governor.

CHAPTER CXVI.

AN ACT Relating to the Payment of Taxes.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That Territorial warrants shall be received in payment of Territorial taxes, county warrants in payment of county taxes, and township warrants in payment of township taxes. Territorial and township warrants received for taxes.

SEC. 2. County treasurers shall not be required to pay into the Territorial treasury more Territorial taxes than shall have been actually collected in their respective counties. County treasurers pay over only taxes collected.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER CXVII.

AN ACT to Provide for the Paying over of certain Territorial Taxes.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Coffey county
treasurer pay
over Territorial
taxes when.

SECTION 1. The county treasurer of Coffey county be and is hereby directed to pay over to the Territorial treasurer the whole amount of Territorial taxes, for the year 1859, paid to him by township treasurers, on or before the first Monday of June next.

Delinquent taxes
collected how.

SEC. 2. All delinquent Territorial taxes shall be collected in said county for the year 1859, in accordance with the provisions of the "Act to Provide for the raising of a Revenue for the year eighteen hundred and fifty-nine," as passed by this Legislature, and the general tax law of 1858.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER CXVIII.

AN ACT Legalizing the Assessment of Taxes in Chase County, K. T.

Be it enacted by the Governor and Legislative Assembly of Kansas Territory:

Assessment and
appraisement of
M. M. Flory le-
galized.

SECTION 1. That the assessment and appraisement of real estate and personal property, made by M. M. Flory, by order of the board of supervisors of Chase county, K. T., in the month of

July or August, A. D. 1859, be and the same is hereby legalized and made valid, the same as if said assessment and appraisement had been made prior to the first day of June, A. D. 1859.

SEC. 2. This act to be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 2, 1860.

S. MEDARY,

Governor.

CHAPTER CXIX.

AN ACT to Extend the time for the Collection of Taxes in Doniphan County.

Be it enacted by the Governor and Legislative Assembly of Kansas Territory :

SECTION 1. That the time for paying the taxes due on the first day of January, 1860, for the year 1859 and 1858, is hereby extended, for the benefit of the tax payers of Doniphan county, Kansas Territory, until the first day of March, 1860. Time for payment of taxes extended

SEC. 2. *Be it further enacted,* That the county treasurer of 1859, be and he is hereby authorised to collect and settle with the county board of said county, all taxes due for the years 1858 and 1859, up to the first day of March, 1860. Treasurer authorized to settle up to March, 1860

SEC. 3. This act to take effect from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 2, 1860.

S. MEDARY,

Governor.

CHAPTER CXX.

AN ACT Amendatory to an act entitled "An Act Extending the Time for the Collection of Taxes in Doniphan County."

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Section one amended.

SECTION 1. That section first of an act entitled "An Act Extending the time for the Collection of Taxes in Doniphan county," passed January 23, 1860, be amended so as to read as follows: "That the time for paying the taxes due on the first day of January for the years 1858 and 1859, is hereby extended, for the benefit of the tax payers of Doniphan county, until the first day of June, 1860."

Section two amended.

SEC. 2. That section second of said act read as follows: "That the county treasurer for said county, of the year 1859, is hereby authorized to collect and settle with the county board of said county, all taxes due up to the first day of March, 1860."

SEC. 3. This act to take effect from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY, *Governor.*

CHAPTER CXXI.

AN ACT Legalizing an Assessment made by William J. Orum.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Assessment of William J. Orum legalized.

SECTION 1. That the assessment made by William J. Orum, for Wolf River Township, in Doniphan county, of Kansas Territory, is hereby declared legal.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 16, 1860.

S. MEDARY, *Governor.*

CHAPTER CXXII.

AN ACT Legalizing the Assessment for the year 1858, in Franklin County,
and for other purposes.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas :*

SECTION 1. That the assessment for the year 1858, made by the assessors of the several townships in Franklin county, be and the same are hereby declared legal. Assessment legalized.

SEC. 2. The treasurer of said county is hereby authorized to proceed to advertise the lands for delinquent taxes for sale, on the first Monday of March next, in the manner prescribed by law, for the payment of taxes that may be due, with interest thereon. Treasurer authorized to advertise lands for sale.

SEC. 3. That this act shall not be construed to interfere with any order which the board of supervisors has heretofore made affecting the taxes for the year 1858. Not to interfere with order made by supervisors.

SEC. 4. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER CXXIII.

AN ACT to Legalize the Assessment of Taxes made by William Tulles in Peoria Township, Franklin County, Kansas Territory, for the year 1859.

*Be it enacted by the Governor and Legislative Assembly of
the Territory of Kansas :*

SECTION 1. That the assessment of taxes in Peoria township, Franklin county, Kansas Territory, for the year 1859, by William Tulles, is hereby legalized. Assessment of William Tulles legalized.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

CHAPTER CXXIV.

AN ACT Legalizing certain Acts therein mentioned.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Taxes levied by
supervisors legal-
ized.

SECTION 1. That the taxes levied by the township supervisors of Grasshopper Falls township, in Jefferson county, in this Territory, for the year 1859, including the bridge tax, for building a bridge across the Grasshopper creek, be and the same hereby are legalized; notwithstanding any informality in the proceedings connected with the voting or levying of such taxes.

SEC. 3. This act shall take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 18, 1860.

S. MEDARY,
Governor.

CHAPTER CXXV.

AN ACT to Legalize the Assessment of Taxes, for the year 1858, in Jefferson County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the assessment of taxes for the year A. D. 1858, made in Jefferson county, in said Territory, be and the same is hereby declared to be legal and valid. Assessment legalized

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 13, 1860.

S. MEDARY,

Governor.

CHAPTER CXXVI.

AN ACT to Extend the time for the Collection of Tax in Jefferson County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That the time for the collection of county and township tax, in the county of Jefferson, for the year one thousand eight hundred and fifty-nine, be and is hereby extended from the first day of January, A. D. 1860, to the twenty-fifth day of February, A. D. 1860. Time extended for collection.

SEC. 2. And the time allowed by law for doing all things concerning the collection of tax in said county, is hereby extended to as many days as there is [are] between the first day of January, A. D. 1860, and the twenty-fifth day of February, A. D. 1860. Time for doing all things concerning taxes extended.

SEC. 3. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
 W. W. UPDEGRAFF,
President of the Council.

Approved February 13, 1860.

S. MEDARY,
Governor.

CHAPTER CXXVII.

AN ACT Extending the time for the Collection of Taxes in Leavenworth County.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Time extended
 for collection of
 county and town-
 ship tax.

SECTION 1. That the time for the collection of county and township taxes in Leavenworth county, except for the city of Leavenworth, for the year A. D. 1859, is hereby extended to the first day of April, A. D. 1860, and for the city of Leavenworth to the first day of March.

Officers collect-
 ing to have addi-
 tional time for
 returns.

SEC. 2. That the officers collecting taxes shall have the same time after the first day of April, A. D. 1860, for making their returns, as they were allowed by law, and be governed, in all respects, by the general laws regulating the collection of taxes, the same as though this act had not been passed, except as herein provided.

SEC. 3. This act to be in force from and after its passage.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
 W. W. UPDEGRAFF,
President of the Council.

Approved February 24, 1860.

S. MEDARY,
Governor.

CHAPTER CXXVIII.

AN ACT Relating to Townships and Township Officers.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

SECTION 1. That each and every township that now is or may hereafter be organized in any county in this Territory, is hereby declared a body politic and corporate, and, in their proper names, may contract and be contracted with, sue and be sued in any court having competent jurisdiction of the subject matter.

Townships body
politic and cor-
porate.

SEC. 2. That on the fourth Monday of March next, there shall be elected, by the qualified electors in each township, two justices of the peace, or so many as may be necessary to make two, if there be any in the township, one of whom shall be elected for two and one for one year, and it shall be so designated on the ballot, and two constables and one township trustee, and such number of overseers of highways as may be necessary; and, on the fourth Monday of March, annually thereafter, there shall be elected, by the qualified electors of each township, one justice of the peace, two constables and one trustee. The powers and jurisdiction and duties of the several justices of the peace and constables herein provided for shall be the same as now prescribed by law, and the duties of the several trustees shall be as hereinafter provided for.

Election held for
what officers.

Jurisdiction.

SEC. 3. The said trustees shall hold their offices for one year or until their successors are elected and qualified, and, before entering upon the duties of their office, shall respectively take an oath or affirmation, before some person authorized to administer oaths, for the faithful performance of their several duties, and severally execute a bond to the board of county commissioners, conditioned as in ordinary official bonds, with at least two freehold securities, in a penalty of not less than double the amount of money which may come into their hands, at any time during their term of office, to be approved by said board of county commissioners.

Trustees hold office
how long.

Take oath and
file bond.

SEC. 4. The duties of said township trustee shall be: First, To keep a true record of his official proceedings, in a book to be provided for that purpose. Second, To receive all moneys belonging to the township, and pay the same out according to law, as

Duties of trustee.

right and justice shall require. Third, To divide his township into convenient highway and school districts, and make such alterations in the same as may be necessary. Fourth, To fill all vacancies in the office of overseers of highways, in his township. Fifth, To see to a proper application of all moneys, belonging to his township, for road, school or other purposes, and to perform all the duties heretofore required of township trustees, [supervisors,] clerk and treasurer. Sixth, To have the care and management of all property, real and personal, belonging to his township, and to superintend the various interests thereof. Seventh, To cause a record to be made, accurately defining the boundaries, and number of each road district, as well as all alterations made in such district or districts, in his township, and the number of overseers of highways in each township. Eighth, Shall have power to administer all oaths, in the necessary discharge of the duties of his office. Ninth, Shall, by virtue of his office, be inspector of elections, and overseer of the poor. Tenth, Shall superintend all the pecuniary concerns of his township, and shall, at the July session of the board of county commissioners, annually, with the advice and concurrence of said board, levy a tax on the property of the citizens of such township, for township, roads and other purposes, and report the same to the county clerk, who shall enter the same on the proper tax duplicate, in a separate column or columns, and the treasurer shall collect the same as other taxes are collected; but, in a failure of such trustee and commissioners to concur, then such board of county commissioners shall levy such township, road and other taxes.

Vacancies how filled.

SEC. 5. All vacancies in the office of township trustee shall be filled by the board doing county business, in term time, or the county clerk in vacation; and every trustee, so appointed, shall continue in office until his successor is elected and qualified, and shall execute a bond, as provided for in section three of this act.

To keep account of receipts and expenditures.

SEC. 6. The trustee shall examine and settle all accounts and demands against his township, and shall keep an accurate account with his township, which shall be so arranged and kept as to show the amount received and paid out, on account of separate and distinct funds, and to whom paid, as well as the whole receipts and expenditures, by one general account, and shall file all accounts as vouchers, and report the same to the county board in his annual settlement therewith, which report shall be verified by his affidavit.

SEC. 7. The trustee shall, annually, on the last Saturday in February, settle with and audit the accounts of road overseers of highways in his township, and shall, within five days thereafter, make, to the board of county commissioners, a complete report of the receipts and expenditures of his township, during the preceding year; which report shall clearly show the amount received and expended on account of township, road, school and other purposes, as well as the proper balance remaining on hand; and he shall, within ten days thereafter, record, at length, a copy of such report in the township record, and publish the same, by posting up a certified copy of the same, at the place of holding elections therein.

Settle and make report annually.

SEC. 8. Such trustee shall, at the expiration of his term of office, deliver to his successor all the moneys, books, papers and other property belonging to his township.

Deliver property in his possession to successor.

SEC. 9. The trustee, at the time of settling with the county board, as provided in section seven of this act, shall file with said board an itemized statement, verified under oath, of his charges and services as such trustees; upon which the board of county commissioners shall allow him such reasonable compensation as they may deem just, not to exceed two dollars per day, or in that proportion, for all time necessarily employed, which shall be paid out of the funds of the proper township.

To present itemized account of charges and services.

Compensation.

SEC. 10. The records and other books of the township trustee shall always be open for public inspection.

Records open for public inspection

SEC. 11. The offices of township clerk and township treasurer are hereby abolished, after the election and qualification of the trustee herein provided for, and, after such election and qualification, it shall be the duty of such clerk and treasurer to deliver to such trustee all moneys, books, papers and all other property of such township in their possession.

Offices abolished when.

SEC. 12. In all actions against a township, process shall be served by delivering a certified copy thereof to the trustees, at least ten days before the return day of such process, and the trustee may appoint an attorney to defend such suit or proceeding.

In actions against township, process served on trustee.

SEC. 13. Should any person elected or appointed to the office of trustee, under this act, after having accepted such office, fail to perform any duty required of him by law, such person, so failing, shall forfeit and pay to such township any sum, not exceeding one hundred dollars for each failure, to be recovered in a civil action, in the name of said township, before any court of competent jurisdiction.

Persons failing to perform duty after accepting.

Trustee cannot
change, locate or
vacate any high-
way.

SEC. 14. The township trustee shall have, in no case, any power to change, locate or vacate any highway, in any township, in any county; but such power is vested in the county commissioners of the county, under the same regulations as to the petition, notice and appointment of viewers, and assessment of damages, as are now provided by law, in cases affecting in more than one township, and that all business now pending before any board of township supervisors, in relation to changing, vacating and locating highways, be transferred to the board of county commissioners of the proper county.

Trustee and jus-
tices of the peace
judges of election.

SEC. 15. That the trustee and justices of the peace, herein provided for, shall be judges of the election in their respective townships, and shall have power to appoint two clerks for each election precinct, and shall conduct the said election in all respects, as other elections under the general election law; and, should the said trustee and justices, or either of them, fail to meet at the place of holding the election, by the hour of ten o'clock in the morning, then the electors present shall select from their number, viva voce, one or more judges of election, as the case may be, who shall have all the powers and authority of the judges herein mentioned; and, previous to receiving any votes, the judges and clerks shall severally take an oath or affirmation that they will faithfully discharge the duties of their respective offices; which oath or affirmation the judges and clerks are hereby empowered to administer to each other.

If they fail to ap-
pear.

Ballot for but
one overseer.

SEC. 16. That it shall not be lawful for any elector to vote for more than one overseer of highways; and, if any ballot shall contain more than one name for the office of overseer, the same shall be deemed void, so far as that officer is concerned

Constable to take
oath.

SEC. 17. Every constable, before he enters on the discharge of the duties of his office, shall take an oath or affirmation, before a person authorized to administer the same, faithfully to discharge his duties as constable, during his continuance in office, according to the best of his ability.

Give undertaking

SEC. 18. Every constable, within ten days after his election, and before he shall take the oath of office, shall give an undertaking to the Territory of Kansas, in a sum not exceeding two thousand dollars nor less than five hundred dollars, with one or more sureties, residing in the proper township, such as the board of county commissioners shall approve, conditioned for the safe keeping and paying over to the proper person or authority all moneys which may be collected or received by him, or which may

Conditions.

otherwise come into his hands, by virtue of his office, and for the due, honest and faithful discharge and performance of, all and singular, his duties as such constable, according to law, during his continuance in office.

SEC. 19. When such undertaking shall have been given, to the satisfaction of the board, the county clerk shall make an entry of the same, and file the same in his office. Undertaking filed.

SEC. 20. Whenever a vacancy shall occur in the office of constable, in any township, by death, removal, resignation or non-acceptance of the person elected, or where there shall be a failure to elect, the said board shall appoint a suitable person to fill such vacancy, until the next annual election for constable, and until a successor be elected and qualified. Vacancy.

SEC. 21. The constable so appointed shall take a like oath and give a like undertaking as is required in other cases of constables. Appointee to give like undertaking and take oath.

SEC. 22. Justices of the peace, after the first election under the provisions of this chapter, shall severally hold their offices for two years, from and after the[ir] election and qualification, except when elected to fill a vacancy, and, when so elected, shall hold during the unexpired portion of such term. Justices of the peace hold office how long.

SEC. 23. Every justice of the peace, before he enters upon the duties of his office, and within the time limited by law for filing his oath of office, shall execute an instrument, in writing, with two or more sufficient sureties, to be approved by the county board of commissioners, which writing shall be, in substance, as follows: "A—— B——, chosen justice of the peace, in the township of ——, and county of ——, and C—— D—— and E—— F——, his sureties, do hereby jointly and severally agree to pay, on demand, to each and every person who may be entitled thereto, all such sums of money as the said justice may become liable to pay, on account of any moneys which may come into his hands by virtue of his office. Dated at ——, this —— day of ——, A. D. ——. A—— B——, C—— D——, E—— F——."

SEC. 24. The approval of said bond shall be indorsed thereon, and the said justice shall cause the same to be filed in the office of the county clerk, and a copy of such instrument, duly certified by such clerk, under the seal of the county, shall be prima facie evidence of the contents and execution thereof. To execute bond. To be approved. Filed in county clerk's office. Copy evidence.

SEC. 25. Whenever a justice of the peace shall be elected to fill a vacancy, it shall be so designated on the ballot. If elected to fill vacancy, to be so stated on ballot.

Acts repealed.

SEC. 26. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 27. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

CHAPTER CXXIX.

AN ACT Supplemental to an Act entitled "An Act Legalizing the Appointment of Trustees and Regulating Conveyances for the City of Lawrence," approved February 11, 1858.

WHEREAS, The location of said Wyandott float or reservation upon the town site of Lawrence has been contested by various persons, thereby causing an additional expense, not contemplated or provided for in the original agreement between the parties concerned in the location of said reservation or float; therefore,

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

Trustees may levy and collect tax to pay expenses of defending and conveying title.

SECTION 1. That the said trustees, John P. Wood, Joel Grover, G. W. Hutchinson, S. S. Snyder and Wm. H. R. Lykins or their successors are hereby empowered to levy and collect, at the time of conveying title to the proprietors, a tax, not to exceed two dollars and a half per lot, upon each town lot within the boundaries of said reservation or float, to pay the actual expense of defending and conveying title to said town lots.

Committee to audit and allow claims against trustees.

SEC. 2. Lyman Allen, S. K. Huson and Josiah Miller are hereby appointed a committee to audit and allow all claims and accounts against said trustees, and said trustees shall pay such claims and accounts according to the award of said committee.

Trustees pay same.

Trustees execute bond.

SEC. 3. The said trustees before named shall execute a bond, with good and sufficient securities, payable to the city of Lawrence, in the penal sum of fifteen thousand dollars, conditioned

upon the faithful expenditure of the money collected according to the provisions of the first section of this act, said bond to be approved by the mayor of the city of Lawrence and filed with the city clerk.

SEC. 4. Should there be any moneys collected by the provisions of the first section of this act, remaining in the hands of said trustees, after paying all the actual expense of procuring and conveying said title, said trustees are hereby required to pay such surplus into the treasury of the city of Lawrence, to be credited to the school fund of said city.

Money remaining in hands of trustees to be paid into school fund of city.

SEC. 5. The committee and trustees before mentioned shall, before entering upon their respective duties, take an oath, before some officer authorized to administer oaths, faithfully and impartially to discharge their several duties as aforesaid, said oath to be filed with the bond, in the office of the city clerk.

Committee and trustees to take oath.

SEC. 6. This act shall take effect and be in force from and after its passage.

GUSTAVUS . COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 21, 1860.

S. MEDARY,
Governor.

CHAPTER CXXX.

AN ACT to Provide for the Issue of Duplicate Territorial Warrants in certain Cases.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

SECTION 1. That it shall be lawful for the Territorial Auditor to issue duplicate warrants upon the Territorial treasury for all such warrants as may have been lost or accidentally destroyed.

May issue duplicates.

SEC. 2. That no duplicate warrant shall be issued to any person or persons under the provisions of this act, unless such person or persons shall first, by affidavit and other sufficient testimony, prove, to the satisfaction of the Territorial Auditor, the

No duplicates to be issued unless auditor satisfied that original is lost or destroyed.

loss or destruction of the original warrant for which a duplicate is applied for, and that such person or persons are legally entitled to the same.

Auditor to notify
treasurer of issue
of duplicates.

SEC. 3. That it shall be the duty of the Territorial Auditor, upon the issuing of any duplicate warrants, to immediately notify the Treasurer of the Territory of the same, in writing; and the said Treasurer is hereby prohibited from paying any original warrant for which a duplicate has been issued, after the receipt of such notice from the auditor.

SEC. 4. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 18, 1860.

S. MEDARY,

Governor.

CHAPTER CXXXI.

AN ACT for the Encouragement of Wool Growing.

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas :

Sheep and build-
ings occupied by
them exempted
from taxation.

SECTION 1. That all sheep in this Territory, owned by citizens hereof, and all lots, fields, pastures, barns and sheds inclosed or erected for the exclusive protection of sheep, are hereby exempted from all taxes whatsoever.

SEC. 2. This act to take effect and be in force from and after its passage.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 25, 1860.

S. MEDARY,

Governor.

RESOLUTIONS

AND

MEMORIALS.

(General Session.)

NUMBER I.

PREAMBLE AND JOINT RESOLUTION for Adjournment to Lawrence.

WHEREAS, The Legislature of Kansas is required, by law, to Preamble. meet at the capital of said Territory ; and

WHEREAS, There is, at said Capital, such a deficiency of suitable rooms, hotel accommodations and other conveniences as seriously to interfere with the progress of Legislative business ; and

WHEREAS, A sufficient guaranty has been offered, in writing, by C. W. Babcock, B. F. Dalton and others, that no expense whatever shall accrue to the Territory by reason of a removal to the city of Lawrence ; therefore,

Be it resolved by the Governor and Legislative Assembly of the Territory of Kansas :

That we do adjourn at twelve M., on January sixth, eighteen hundred and sixty, to meet in the city of Lawrence, Kansas Territory, on the seventh, eighteen hundred and sixty, at twelve M., to hold the remainder of the present session ; and that the Sergeant-at-arms of the House of Representatives be requested to procure suitable rooms for the accommodation of the said Legislative Assembly, in said city of Lawrence. Resolution for adjournment.

And further resolved, That the clerk be instructed to enter on the journal the guaranty against expense resulting to the Territory from removing the present session of the Legislature, which guaranty is signed by C. W. Babcock, B. F. Dalton, L. L. Jones, S. W. Eldridge, P. R. Brooks, G. W. Hutchinson, E. S. Lowman, S. O. Thacher, G. W. Deitzler and Lyman Allen, and

that said guaranty be filed with the enrolled copy of the foregoing resolution, in the Secretary of State's office.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
 W. W. UPDEGRAFF,
President of the Council.

This preamble and joint resolution, having been returned by the Governor, with his objection thereto, and, after reconsideration, having passed both Houses by the constitutional majority, it has become a law this the sixth day of January, A. D. eighteen hundred and sixty.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
 W. W. UPDEGRAFF,
President of the Council.

(Extra Session.)

NUMBER II.

JOINT RESOLUTION for Adjournment to Lawrence.

Resolved by the Governor and Legislative Assembly of the Territory of Kansas:

Resolution for
adjournment.

That we do adjourn, on Friday, the twentieth day of January, A. D. eighteen hundred and sixty, at four o'clock, P. M., to meet in the city of Lawrence, in this Territory, on the twenty-first day of January, A. D. eighteen hundred and sixty, at twelve o'clock, M., to hold the remainder of the session.

Further resolved, That the bond or obligation, signed by C. W. Babcock, L. L. Jones, S. W. Eldridge, G. W. Hutchinson and Lyman Allen, conditioned fully to indemnify the Territory of Kansas against all expenses accruing from this adjournment, as well as the late Legislative Assembly, from the Capital to Lawrence, be accepted by the Legislative Assembly and spread on the journal of the House, and that said indemnifying bond, which bears date nineteenth day of January, A. D. eighteen hundred and sixty, be filed in the office of the Secretary of the Territory, with enrolled copy of the foregoing resolution.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
 W. W. UPDEGRAFF,
President of the Council.

These joint resolutions, having been returned by the Governor, with his objections thereto, and, after reconsideration, having passed by a vote of two-thirds of both Houses, it has [they have] become a law this twentieth day of January, eighteen hundred and sixty.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

NUMBER III.

JOINT RESOLUTIONS Memorializing the Congress of the United States for the award of an additional United States District Judge for Kansas Territory.

WHEREAS, The number of judges now assigned to this Territory are barely sufficient to insure the proper discharge of the judicial business of the eastern portion thereof; and Preamble.

WHEREAS, There is now a population in the extreme western portion of the Territory of nearly twenty-five thousand, who are removed some seven hundred miles from any court of civil or criminal jurisdiction, and thus practically without the benefit of the writ of habeas corpus and other constitutionally guaranteed protections of a judicial nature; and

WHEREAS, This large number of inhabitants will, in all probability, be increased, during the ensuing year, to nearly, if not quite, one hundred thousand; therefore, in justice to this vast number of citizens of the United States, and in view of the absolute necessities of the Territory,

Be it, by the Governor and Legislative Assembly of the Territory of Kansas, resolved:

That the honorable, the President, Senate and House of Representatives of the United States be most earnestly solicited to award to the said Territory at least one additional United States District Judge, and to assign to such judge all that section of country now embraced in the county of Arrapahoe, comprising what is generally known as the Pike's Peak country or Jefferson Territory. Resolutions asking for additional U. S. judge.

Resolved, That, if said additional judge be so awarded and assigned, nothing contained in any law defining the judicial districts of the Territory of Kansas shall interfere with the provisions of these resolutions ; but any such law shall be taken as subject to the contingency of the award and assignment of such judge.

Resolved, That the foregoing preamble and resolution [be] signed by the Governor, President of the Council and Speaker of the House of Representative, and that one copy, so signed, be forwarded to the President of the United States, one to the President of the Senate, and one to the Hon. Marcus J. Parrott.

Resolved, That the immediate action of Congress herein is most respectfully and earnestly invoked.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

Approved February 27, 1860.

S. MEDARY,

Governor.

NUMBER IV.

CONCURRENT RESOLUTION Memorializing Congress concerning Indian Lands.

Preamble.

WHEREAS, By various treaty stipulations between the General Government and the Indians of Kansas, the said Indians have secured a very large portion of the timber land of the Territory at large, and almost every acre of it on the streams where their "head rights" lie ; and

WHEREAS, The prairie lands of Kansas are very fertile and desirable, and being rapidly settled upon by an industrious and intelligent population, whose earnest, honest efforts to reclaim the wilderness ought to be encouraged by the General Government ; and

WHEREAS, There is but little timber in Kansas except along the streams, and in many sections that is nearly all in the hands of Indians, in consequence of which it is next to impossible for the settlers to inclose their fields and erect their buildings ; and

WHEREAS, Almost at their very doors, and everywhere in full view, there is an adequate supply of excellent timber, but which the present policy forbids them, under severe penalties, to touch, impelling them, in many instances, from absolute necessity, to violations of law, and subjecting them to its consequent penalties, involving disputes with officials and engendering disrespect and hatred to the Government that suffers such a state of things to continue ; and

WHEREAS, The Indians would sell a portion of their timber, sufficient for the present pressing necessities of the people, had they the power to do so ; therefore,

Resolved by the Governor and Legislative Assembly of the Territory of Kansas :

That the President and Congress of the United States are hereby most earnestly requested to secure, at an early day, the necessary changes in the relation between the Government and the Indians of Kansas to enable the people to acquire legal possession of at least a portion of the timber now in possession of the Indians.

Resolution asking for change in relations with Indians.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

NUMBER V.

CONCURRENT RESOLUTIONS Respecting Admission of Kansas into the Union.

WHEREAS, Under an Act of the Legislative Assembly of the Territory of Kansas, approved February 11, A. D. 1859, entitled "An Act providing for the formation of a Constitution and State Government for the State of Kansas," an election was held on the fourth Monday of March, A. D. eighteen hundred and fifty-nine, to ascertain the sense of the people upon the subject of forming a Constitution and State Government, and asking admission into the Union ; and

Preamble.

WHEREAS, At said election, the qualified electors voted nearly five to one in favor of such measure, and

WHEREAS, Under the same Act, an election was held on the seventh of June, eighteen hundred and fifty-nine, for delegates to a Convention as aforesaid, which Convention assembled at Wyandott, on the fifth of July following, and formed a Constitution, which, being submitted to the people, was ratified by a majority of nearly six thousand; and

WHEREAS, The votes cast at said election, being over sixteen thousand, furnishes authentic evidence of the existence of a population of one hundred thousand, the highest interest of which large and rapidly increasing population imperatively demands, as the electors have already formally declared, a change from a Territorial to a State form of Government; therefore,

Resolutions uniting with Wyandott Convention in asking for admission into the Union.

Resolved by the Council, (the House of Representatives concurring,) That we do most earnestly unite with the late Constitutional Convention in its petition to Congress for the speedy admission of the State of Kansas into the Union, under the Constitution formed at Wyandott.

Resolved, That copies of this preamble and resolutions, attested by the signatures of the presiding officers and clerks of the two Houses, be transmitted to the President of the United States, the President of the Senate, and our delegate in Congress, to be by them brought before Congress.

GUSTAVUS A. COLTON,

Speaker of House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

NUMBER VI.

CONCURRENT RESOLUTION in Relation to Claims.

Preamble.

WHEREAS, The citizens of Kansas, during the political troubles which prevailed in our Territory during the early part of its history, suffered greatly in the loss of property, many of them having lost all or nearly all they possessed; therefore,

Resolved by the House, (and [the] Council concerning, [con-

curing,]) That we do most earnestly but respectfully urge upon Congress that a sufficient appropriation be made, either in land or money, at an early day, to meet the losses thus sustained by our citizens, and that a copy of the foregoing preamble and resolution be forwarded to our Delegate in Congress, and that he be respectfully requested to urge upon Congress the necessity and justice of such an appropriation.

Resolution asking Congress to appropriate money or lands for the payment of claims.

Second, That the Governor be respectfully requested to transmit a copy of these resolutions, with a copy of the report of the Claim Commissioners, together with all the testimony respecting said claims, and the record of the proceedings of said commissioners, to Congress, and that the Commissioners, Auditor and Secretary of the Territory be and are hereby authorized and directed to deliver, to such person as may be appointed by the Governor, the possession of all the original testimony, books, papers and documents of said commissioners, that the same may be taken to Washington and exhibited to Congress; and then returned to the persons from whom they were originally received; *Provided,* That those who are interested in said claims shall pay the expenses of said special agent.

Officers of Territory to furnish documents for exhibition to Congress.

Claimants pay expenses.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.
W. W. UPDEGRAFF,
President of the Council.

NUMBER VII.

MEMORIAL to Congress in Relation to the Pay of the Linn County Militia.

To the Honorable the Senate and House of Representatives of the United States :

The memorials of the Legislative Assembly of the Territory of Kansas respectfully represent, that, in the early part of the Spring, in the year 1858, the south-eastern portion of Kansas Territory was visited by marauding parties, that robbed and plundered the settlers, in many instances burned their houses, abused their persons and drove them from their claims, beyond the limits

Congress petitioned to defray expenses of Linn County Militia.

of the Territory. Armed companies of men passed alternately from the Territory into the State of Missouri and from the State into the Territory, committing violence on persons and property. In some instances, murders the most cruel and inhuman were perpetrated by these bands of desperadoes. The people of Linn county were, by the acts of these aggressive parties, the principal sufferers. The timid fled from their homes ; the bolder and more determined abandoned their accustomed avocations and took up arms in defence of their persons and property. Messengers were dispatched to J. W. Denver, Governor of the Territory, to inform him of the grievances of the people, and to ask for military organizations and aid. In response to this call, the Governor visited the counties of Linn and Bourbon, where he was met by large assemblies of citizens, who related to him their grievances and the mode of protection required. The Governor, in view of the facts, and for the purpose of restoring and preserving the peace, not only in this Territory, but in the western border of Missouri, organized a company of cavalry, called the "Linn County Militia," consisting of forty-seven men, rank and file, with five commissioned officers, to wit: Captain A. J. Weaver ; first lieutenant, J. H. Tucker ; second lieutenant, S. Grower ; second brevet lieutenant, J. C. S. Colby. The company thus organized was stationed in Linn county, near the Missouri State line, on or about the fifteenth day of June, eighteen hundred and fifty-eight. Commissions issued to the officers on the twenty-sixth day of June, of the same year. The company furnished their own supplies and equipments, and remained in actual service from date of organization to the second day of October, eighteen hundred and fifty-eight, when they were disbanded by the order of the Governor. To officers and privates, the Governor promised such supplies and compensations, during the time of their said service, as were usually given to mounted volunteers in the actual service of the United States. No compensation has ever been paid to said company or to any portion of them, for their services or for their necessary supplies or equipments. The expense incurred for the services and maintenance of said company during the time above stated was not less than ten thousand dollars.

Your memorialists, therefore, respectfully ask that an appropriation of ten thousand dollars be made by your honorable body, to defray the expenses of said company, and that the same may be disbursed to such persons as may be entitled to receive the

same, upon the production of such vouchers and certificates or other evidences of services as may be required by law.

GUSTAVUS A. COLTON,
Speaker of House of Representatives.

W. W. UPDEGRAFF,
President of the Council.

Approved February 27, 1860.

S. MEDARY,
Governor.

AUTHENTICATION.

I CERTIFY that I have collated with and corrected by the original rolls on file in this office, the proof sheets of the printed copies of this edition of the Laws and Resolutions of the Legislative Assembly of the Territory of Kansas, passed at the General and Extra Sessions thereof, held during the months of January and February, A. D. 1860.

Given under my hand and the seal of the Territory of
Kansas, this fifth day of September, 1860.

GEORGE M. BEEBE,
Secretary of the Territory of Kansas.

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GENERAL INDEX.

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